Vol. 43—No. 133
7-11-78
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federal register

TUESDAY, JULY 11, 1978

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federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: July 10, 1978]

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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce, Federal Maritime Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment: (1) Changes the title of two positions at the Department of Commerce to reflect the current title of the superior, (2) excepts under schedule C a position at Federal Maritime Commission because it is confidential in nature.

EFFECTIVE DATE: June 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3314(a) (10) and (11) are amended and 213.3367(i) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(10) One private secretary to the Assistant Secretary for Congressional Affairs.

(11) One private secretary to the Deputy Assistant Secretary for Congressional Affairs.

* * * * *

§ 213.3367 Federal Maritime Commission.

* * * * *

(i) One confidential assistant to the Chairman.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-18984 Filed 7-10-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare; Department of Energy; Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions in the Department of Health, Education, and Welfare; Department of Energy; and Small Business Administration because they are confidential in nature.

EFFECTIVE DATE: June 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3316(k)(6) and 213.3332(h) are added and 213.3331(a)(1) is amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(k) *Office of the Assistant Secretary for Planning and Education.* * * *

(6) One confidential assistant to the Deputy Assistant Secretary for Income Security Policy.

* * * * *

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.*

(1) One confidential secretary, one confidential assistant (secretary), one motor vehicle operator and one steward to the Secretary.

* * * * *

§ 213.3332 Small Business Administration.

* * * * *

(h) Special assistant to the Assistant Administrator/Advocacy and Public Communication (Chief Counsel for Advocacy).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-18985 Filed 7-10-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Interest on Unpaid Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires handlers of cranberries grown in the production area to pay interest of 1 percent per month on any unpaid assessments beginning 30 days from the due date prescribed by the Cranberry Marketing Committee. It also requires such handlers to file certified reports by the 10th day, rather than the 20th day, of certain specified months. The prescribed interest charge should encourage handlers to pay assessment obligations promptly. Earlier submission of reports by handlers should be helpful to the committee and the industry generally in planning for operations under the marketing order.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice was published in the June 12, 1978, issue of the FEDERAL REGISTER (43 FR 25348) that consideration was being given to a proposal by the Cranberry Marketing Committee, established under the marketing agreement

and order No. 929, both as amended, (7 CFR Part 929), regulating the handling or cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice provided that all written data, views, or arguments in connection with the proposal be submitted not later than June 26, 1978. No views were received.

The prescribed interest charge should encourage handlers to pay assessment obligations promptly. Assessment payments are due October 1, January 1, and April 1 of each fiscal period. Under the regulation interest charges would accrue on any unpaid assessment balance beginning 30 days after the specified due date. The amendment also requires handlers to submit to the committee reports as to the quantity of cranberries acquired, handled and stored by the 10th day, rather than the 20th day, of certain specified months. Earlier submission of reports by handlers should be helpful to the committee and the industry generally in planning for operations under the marketing order.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendations by the Cranberry Marketing Committee, and other available information it is hereby found that amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR Part 929.101 et seq.) as hereafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act. Therefore, said rules and regulations are hereby amended by adding a new § 929.152 and revising paragraph (b) of § 929.105 to read as follows:

§ 929.152 Delinquent assessments.

Each handler shall pay interest of one percent per month on any unpaid assessment balance beginning 30 days from the due date prescribed by the committee. Such interest charge is to apply to any unpaid assessments which become due the committee after the effective date of this section.

§ 929.105 Reporting.

* * * * *

(b) Certified reports shall be submitted to the committee by each handler not later than the 10th day of February, May, and August of each fiscal period showing (1) the total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled from the beginning of the crop year through January 31, April 30, and July 31, respectively, and (2) the respective quantities of cranberries and cranberry products held by the handler on the 1st day of February, May, and August of each fiscal period.

Dated, July 6, 1978, to become effective August 10, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-19095 Filed 7-10-78; 8:45 am]

[3410-02]

[Docket No. AO-341-A4]

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Allotment Bases Updates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This decision amends the Federal marketing order regulating the handling of cranberries grown in certain States. Cranberry growers and processors approved the amendment in a referendum held June 2 through June 12, 1978. The amendment provides for updating the allotment bases of existing producers and entry of new producers by allocation of base quantity from a reserve. Another change provides for a public member and alternate member on the committee.

EFFECTIVE DATE: August 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings and determinations.*—The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the production area (Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island, New York).

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of cranberries grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of cranberries grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of cranberries grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) The "marketing agreement, as further amended, regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the cranberries covered by the said order, as amended, and as hereby further amended) who, during the period September 1, 1977, through April 30, 1978, handled not less than 50 percent of the volume of cranberries covered by the said order, as amended, and as hereby further amended;

(2) The issuance of this amendatory order, amending the aforesaid order, is

favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the period September 1, 1977, through April 30, 1978, (which has been deemed to be a representative period), have been engaged within the production area in the production of cranberries for market; such producers having also produced for market at least two-thirds of the volume of cranberries represented in the referendum; and

(3) The issuance of this amendatory order, amending the aforesaid order, is favored or approved by processors who, during the aforesaid representative period, canned or froze within the production area, more than 50 percent of the volume of such canned or frozen cranberries represented in the referendum.

ORDER RELATIVE TO HANDLING

Accordingly, it is determined, that on and after the effective date hereof, the handling of cranberries grown in the production area, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Section 929.20 *Establishment and membership* is revised by deleting the first two sentences and substituting in lieu thereof the following. As amended § 929.20 reads as follows;

§ 929.20 Establishment and membership.

There is hereby established a Cranberry Marketing Committee consisting of seven members, each of whom shall have an alternate. Except as hereafter provided, members and their alternates shall be growers or employees, agents, or duly authorized representatives of growers. Persons filling grower positions may be referred to as industry members. The committee may be increased by one public member and alternate nominated by the committee and selected by the Secretary. The public member and alternate shall be neither a grower nor a handler. Persons filling these positions may be referred to as non-industry members. The committee, with the approval of the Secretary, shall prescribe qualifications and the procedure for nominating the public member.* * *

2. Section 929.27 *Alternate members* is revised by amending the last sentence thereof to read as follows:

§ 929.27 Alternate members.

* * * In the event both a grower member of the committee and his alternate are unable to attend a committee meeting, the committee may designate any other grower alternate member to serve in such member's place and stead at that meeting: *Provided,* That not more than four members and alternate members selected from those nominated pursuant to § 929.22(b)(1) shall serve as members at the same meeting. *And provided, further,* That grower alternates shall not serve in place of an absent non-industry member.

3. Section 929.32 *Procedure* is revised by amending paragraph (a) to read as follows:

§ 929.32 Procedure.

(a) Five members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require at least five concurring votes: *Provided,* That if the committee is increased by the addition of a public member and such public member or alternate is present at a meeting, 6 members shall constitute a quorum and any action of the committee on which the public member votes shall require 6 concurring votes. If the public member abstains from voting on any particular matter, 5 concurring votes shall be required for an action of the committee.

* * * * *

4. Section 929.48 *Base quantities* is revised by deleting paragraph (b) and adding a new paragraph (b) to read as follows:

§ 929.48 Base quantities.

(a) * * *

(b)(1) A base quantity reserve equal to 2 percent of the total base quantities shall be established annually: *Provided,* That upon recommendation of the committee the Secretary may increase or decrease such percentage except in no event shall the reserve be less than 2 percent. Such reserve shall include any base quantity that becomes available due to any reduction or invalidation because of non-use of base quantity under subparagraph (4) of this paragraph. Such reserve shall be used for the issuance of base quantities to new producers and adjustments in base quantities for existing producers with 25 percent being made available for new producers and 75 percent available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among eligible existing producers on an equitable basis.

(2) The committee shall, subject to approval of the Secretary; establish rules and procedures governing the issuance of base quantities under paragraph (b)(1) of this section. Such rules shall define the terms "new producer" and "existing producer" and specify standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to, on-site inspection of applicant's acreage, past production of cranberries by applicant, acreage planted, average yields, and other economic and marketing factors.

(3) Each person filing an application hereunder for new base quantity or adjustment in an established base quantity shall be notified by the committee of its determination thereon.

(4) A condition for the continuing validity of a producer's base quantity is production of cranberries thereunder in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978-79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the producer's own acreage.

(5) Each producer shall file with the committee such reports as may be necessary for the committee to perform its duties under this section.

* * * * *

5. Section 929.56 *Special provisions relating to withheld (restricted) cranberries* is revised by amending paragraph (d) to read as follows:

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

* * * * *

(d) In the event any portion of the funds deposited with the committee pursuant to paragraph (a) of this section cannot, for reasons beyond the committee's control, be expended to purchase unrestricted (free percentage) cranberries to replace those released, such unexpended funds shall, after deducting expenses incurred by the committee in connection with the purchase and disposition of cranberries pursuant to paragraph (c) of this section, be offered and paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. In the event that the offer is not accepted or directions given by a handler to credit the funds within 90 days, the funds will accrue to the committee's general account.

* * * * *

Subpart—Rules and Regulations

6. Section 929.105 *Reporting* is revised by amending paragraph (a) to read as follows:

§ 929.105 Reporting.

(a) Each report required to be filed with the committee pursuant to

§929.60 and §929.48 shall be mailed to the committee office at Middleboro, Mass., or delivered to that office. If the report is mailed, it shall be deemed filed when postmarked.

(b) * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Effective date: August 15, 1978.

Signed at Washington, D.C., on: July 6, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-19094 Filed 7-10-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

1978 CROP GRADE LOAN RATES—FLUE-CURED TOBACCO

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule establishes the schedule of grade loan rates which will apply to 1978 crop Flue-cured tobacco. The rule is needed to provide the statutory level of support for 1978-crop Flue-cured tobacco. Eligible Flue-cured tobacco may be delivered for price support at the specified rates.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-6695.

SUPPLEMENTARY INFORMATION: On May 26, 1978, Commodity Credit Corporation (CCC) published in the FEDERAL REGISTER (43 FR 22727) a proposed schedule of grade loan rates for providing price support for 1978-crop Flue-cured tobacco at the statutory level of 121 cents per pound. The document invited interested parties to submit written views and recommendations to be received by June 26.

DISCUSSION OF COMMENTS

There were 15 responses received. Tobacco exporters and associations of tobacco exporters, 12 of the responses, expressed the view that the rates proposed for the grades in demand for export will cause exports to suffer because foreign importers will reduce the proportion of U.S. Flue-cured tobacco in their blends and increase the proportions of foreign grown tobacco obtainable at lower prices. None suggested, however, that the rates proposed for the grades in export demand are higher in relation to their value than the rates proposed for other grades.

The major thrust of the exporters' responses is that the statutory formula for determining the level of support should be modified so that in future years the level of support would be lower. This would allow grade loan rates for both upper and lower stalk grades to be established at levels to allow U.S. Flue-cured tobacco to better compete with foreign grown tobacco.

Two responses, one from a producer association and another from a State Department of Agriculture, recommended rates slightly lower than proposed for certain "P" and "N" grades for which there is little export demand and correspondingly higher rates on export grades. One farm organization expressed support for the grade loan rates as proposed.

After considering all the responses received, it has been decided to adopt the schedule of grade loan rates as proposed.

FINAL RULE

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.16 to read as set forth below, effective for the 1978 crop of Flue-cured tobacco. The material previously appearing under § 1464.16 remains applicable to the crop to which it refers.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an environmental impact statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on July 5, 1978.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

§ 1462.16 1978 crop Flue-cured tobacco, types 11-14, loan schedule.[1]

[Dollars per 100 lb, farm sales weight]

Grade	Loan rate	Grade	Loan rate
A1F	156	B3KL	127
A1L	156	B4KL	123
B1L	146	B5KL	118
B2L	142	B6KL	112
B3L	139	B3KF	127
B4L	135	B4KF	123
B5L	131	B5KF	117
B6L	125	B6KF	112

[Dollars per 100 lb, farm sales weight]—Continued

Grade	Loan rate	Grade	Loan rate
B1F	146	B3KM	130
B2F	142	B4KM	127
B3F	139	B5KM	122
B4F	135	B6KM	114
B5F	131	B3KR	133
B6F	125	B4KR	129
B1FR	144	B5KR	124
B2FR	140	B4KV	118
B3FR	137	B5KV	113
B4FR	134	B6KV	107
B5FR	130	B4G	117
B6FR	124	B5G	113
B4R	123	B6G	107
B5R	116	B5GR	101
B3K	134	B4GK	114
B4K	130	B5GK	110
B5K	126	B6GK	105
B6K	119	B5GG	101
B3V	130	H3L	142
B4V	125	H4L	139
B5V	121	H5L	134
B3S	127	H6L	129
B4S	123	X3KM	124
B5S	117	X4KM	119
X1L	141	X4G	109
X2L	137	X5G	105
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X4L	127	P2L	113
X5L	118	P3L	107
X1F	141	P4L	99
X2F	137	P5L	93
X3F	132	P2F	113
X4F	127	P3F	107
X5F	118	P4F	99
X3V	123	P5F	93
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X4KL	118	M4F	121
X4KF	118	M5F	116
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X3KR	129	H1F	149
K4KR	124	H2F	145
H3F	142	C4KL	126
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C4S	125	N1PO	74

[1] The loan rates listed are applicable to tied and untied Flue-cured tobacco which is: (1) Eligible tobacco as defined in the regulations, and (2) identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Rates for eligible tobacco identified by a marketing card which bears the notation "Discount Variety—Limited Support" are 50 percent of the loan rates listed plus fifty cents ($0.50) per 100 pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest dollar, of the loan rate listed. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2", "No-G", "No-G-F", "No G-F-sand", "No G-F-dirt", or "scrap" will not be accepted. Tobacco is eligible for advance only if consigned by the original producer. The cooperative association through which advances are made available is authorized to deduct 1 cent per pound to apply against overhead costs.

[FR Doc. 78-18996 Filed 7-10-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14910]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Filing and Disclosure Requirements Relating to Beneficial Ownership

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending rules governing the disclosure of beneficial ownership and related requirements which took effect on May 30, 1978. These amendments relate to the application of such rules to a parent holding company and certain of its subsidiaries and to the beneficial ownership of pledged securities, including securities pledged to a broker-dealer in connection with margin account transactions. This action is taken as a result of certain interpretative questions concerning the rules and to clarify certain of the provisions of those rules.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

John Granda, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1750.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the amendment of rules adopted in Securities Exchange Act Release No. 5925 (April 21, 1978) (43 FR 18484). The actions announced in that release were effective May 30, 1978 and pertain to amendments to rules and schedule 13D (17 CFR 240.13d-101), the adoption of new schedule 13G (17 CFR 240.13d-102) and the rescission of form 13D-5 (17 CFR 240.13d-102) relating to disclosure by certain beneficial owners of securities pursuant to section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975) and Pub. L. No. 95-213 (December 19, 1977)). In that release, the Commission also amended certain of its forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and under the Exchange Act to require issuers to disclose in a more uniform manner the percentage of their securities beneficially owned by certain persons.[1]

The amendments announced by the Commission herein involve revisions to rule 13d-1(b)(1)(ii)(G) and rule 13d-3(d)(3) concerning the filing obligation on schedules 13D and 13G, and the determination of beneficial ownership, respectively.

I. Background

A. Proposed Amendment to Rule 13d-1(b)(1)(ii)(G): Parent Holding Companies

Rule 13d-1(b), among other things, addresses the obligation of certain persons to file statements on schedule 13G and specifies certain conditions which if met enable reporting persons to use that short form rather than the long statement, schedule 13D. In general, those conditions include a requirement that a person filing on schedule 13G in satisfaction of a reporting obligation under section 13(d) be a specified type of institutional investor—such as a bank, insurance company, broker-dealer, investment company or employee benefit plan—or that the filing person have a specified relationship to such investors. Thus, the rule as adopted in release No. 33-5925 states that the persons eligible to use the short form include a parent holding company, provided certain conditions are met, including a condition by which holdings of less than 1 percent by a subsidiary which was not entitled to use the short form would not void the availability of the short form for the parent.[2]

As pointed out in release No. 33-5925, the basis for the 1-percent provision contained in the rule was that any requirement that all of the parent's subsidiaries owning the subject securities be one of the designated institutions, as a condition to the parent's use of schedule 13G, would effectively make the short form unavailable to most persons choosing to erect a holding company structure. This result would exist, for example, if a bank holding company had a single nonqualifying subsidiary which was the beneficial owner of securities of the subject class, with such ownership being attributed to the parent holding company. Since the Commission determined that a de minimus provision was consistent with the public interest, the 1-percent test was included in the rule, so long as the information called for by schedule 13D is furnished in the parent's schedule 13G with respect to the securities held by such subsidiary.

The amendments contained herein are intended to clarify and, in certain respects, relax the conditions of the provision. To confirm that holdings by the parent holding company itself are within the de minimus standard, the rule has been revised to indicate that the 1-percent provision applies to holdings of the parent holding company as well as to those of the non-qualifying subsidiaries. Also, to clarify the intention of the Commission in adopting the de minimus provision, it is stated that the 1-percent ceiling is the "aggregate" amount held directly by the parent and directly and indirectly by its non-qualifying subsidiaries.

The amendments also delete the requirement that schedule 13D-type information be furnished in the parent's schedule 13G. The Commission's intention concerning that requirement had been to preserve the parent's eligibility for the short form when minimal amounts of securities were held by non-qualifying subsidiaries, provided the subsidiaries' disclosure concerning only its holdings was comparable to that of persons required to report on schedule 13D. However, questions have arisen concerning the conceptual difficulty in segregating the non-qualifying subsidiary for purposes of preparing the schedule 13D information, and it has been pointed out that the scope of general instruction C and the items of schedule 13D would elicit disclosure concerning such a broad category of persons, holdings and transactions as to effectively undermine the intent of the de minimus provision. In view of the remaining conditions to the availability of schedule 13G, including the requirements that the acquisitions be in the ordinary course of business and not for the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose or effect, the Commission believes it is appropriate to delete the requirement concerning the inclusion of schedule 13D-type information.

B. Proposed Amendment to Rule 13d-3(d)(3): Pledges

Rule 13d-3 defines the term "beneficial ownership" in terms of voting

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[1] In Securities Exchange Act Release No. 14830 (June 5, 1978) (43 FR 25420) the Commission authorized the publication of staff interpretative views concerning the May 30, 1978 effective date and the application of the new rules to beneficial ownership holdings as of such date.

[2] As adopted in release No. 33-5925, rule 13d-1(b)(1)(ii)(G) provides:

(G) A parent holding company, provided that: (1) the schedule 13G is being used to report the indirect acquisition of the beneficial ownership of securities acquired by a subsidiary; and (2) such subsidiary is a person specified in rule 13d-1(b)(1)(ii) (§ 240.13d-1(b)(1)(ii)) except that the inclusion in the reported holdings of not more than 1 percent of a class beneficially owned by a subsidiary that is not so specified will not prevent the use of schedule 13G, so long as the information called for by schedule 13D is furnished in the parent's schedule 13G with respect to the securities of such subsidiary.

power or investment power and describes situations in which persons are deemed not to be the beneficial owner of securities. Rule 13d-3(d)(3) addresses the situation in which a person who is a pledgee of securities might, upon default, be deemed the beneficial owner of such securities. As explained in release No. 33-5925, the pledge provision was adopted largely in response to comments of institutional investors, particularly banks, who urged that they do not receive pledged securities for the purpose of exercising investment or voting powers and that if the pledgee were deemed to be the beneficial owner of the pledged securities immediately upon default, serious practical compliance problems would be presented. In recognition of these problems, the Commission adopted rule 13d-3(d)(3) stating, generally, that a pledgee, after default, would not be deemed the beneficial owner of the pledged securities, provided certain conditions were met.[3] The conditions relevant to the action taken in this release are the requirement that the pledge agreement not grant to the pledgee the power to dispose or to direct the disposition of the pledged securities prior to default, and the provision which limits the application of the pledge provision of the rule to those agreements in which the pledgee is an institutional investor, as specified in rule 13d-1(b)(1)(ii).

It has been pointed out that in view of customary margin account contracts, the condition that the pledge agreement not convey investment power prior to default might suggest that the broker-dealer would be the beneficial owner of all securities placed in such accounts, even prior to default. In view of practical necessities in the operation of margin accounts, the Commission recognizes that this condition concerning investment power should not be applied to such arrangements and has made an appropriate revision to rule 13d-3(d)(3). It should be recognized, however, that remaining conditions include requirements that the pledge be in the pledgee's ordinary course of business and not for the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect. It is also to be emphasized that the provisions concerning the beneficial ownership status of the pledgee generally offer no relief to the pledgor; inasmuch as the pledgor normally would have voting power or investment power over the pledged securities, the beneficial ownership of pledged securities, in a margin account or otherwise, would be attributable to the pledgor and aggregated with all other securities of such class beneficially owned by the pledgor, to determine such person's filing obligation under section 13(d).

The amendments contained here also include two other relatively minor revisions to rule 13d-3(d)(3). First, the provision containing the requirement that the pledgee be a person specified in rule 13d-1(b)(1)(ii) has been expanded to include persons meeting the conditions set forth in rule 13d-1(b)(1)(ii)(G), the provision discussed above concerning parent holding companies. Thus, the pledge provisions of rule 13d-3(d)(3) are applicable to parent holding companies and nonqualifying subsidiaries, but only in cases in which the aggregate amount of securities held by such persons does not exceed one percent.

Another amendment to rule 13d-3(d)(3) deletes from the introductory phrase of that rule the term "as to which there has been a default." That phrase might have been read as limiting the scope of the pledge provision and it is deleted to provide clarity as to the beneficial ownership status of pledged securities prior to default.

II. Certain Findings

As required by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments herein would have on competition. The Commission has found that these amendments will not significantly burden competition and, in any event, has determined that any possible resulting competitive burden will be far outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

III. Effective Date of the Amendments

The following amendments will be effective July 11, 1978.

IV. Authority

The Commission hereby amends rules 13d-1(b)(1)(ii)(G) and 13d-3(d)(3) pursuant to the authority set forth in sections 3(b), 13, 14, and 23 of the Exchange Act. The Commission finds that these amendments have already been generally subject to comment during the public fact-finding investigation in the matter of beneficial ownership, takeovers and acquisitions by foreign and domestic persons[4] or as a result of the proposals published in Exchange Act Release No. 34-13292 (42 FR 12355), or the issues raised in Exchange Act Release No. 34-13900 (42 FR 44964) and are either technical in nature or are less burdensome than previous requirements, such that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

V. Text of Amended Rules

Part 240 of chapter II of title 17 of the Code of Federal Regulations is amended as follows:

1. § 240.13d-1(b)(1)(ii)(G) is revised to read as follows:

§ 240.13d-1 Filing of Schedules 13D and 13G.

* * * * *

(b) * * *
(1) * * *
(ii) * * *

(G) A parent holding company, provided the aggregate amount held directly by the parent, and directly and indirectly by its subsidiaries which are not persons specified in rule 13d-1(b)(ii) (A) through (F), does not exceed one percent of the securities of the subject class;

* * * * *

2. § 240.13d-3(d)(3) is revised to read as follows:

§ 240.13d-3 Determination of beneficial owner.

* * * * *

(d) * * *

(3) A person who in the ordinary course of business is a pledgee of securities under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged securities until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities will be exercised, provided that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of chang-

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[3] As adopted in release No. 33-5925, rule 13d-3(d)(3) provides:

(3) A person who in the ordinary course of his business is a pledgee of securities under a written pledge agreement as to which there has been a default shall not be deemed to be the beneficial owner of such pledged securities until the pledgee has taken all formal steps necessary which are required to declare such default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities will be exercised: provided, that:

(i) The pledge agreement is bona fide, does not grant the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities to the pledgee prior to default, and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to rule 13d-3(b); and

(ii) The pledgee is a person specified in rule 13d-1(b)(1)(ii).

[4] Exchange Act Release Nos. 11003 (September 9, 1974) (39 FR 33855) and 11088 (November 5, 1974) (39 FR 41223).

ing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to rule 13d-3(b);

(ii) The pledgee is a person specified in rule 13d-1(b)(ii), including persons meeting the conditions set forth in paragraph (G) thereof; and

(iii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged securities; or

(B) The power to dispose or direct the disposition of the pledged securities, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the act.

* * * * *

(Secs. 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 14(d)(1), 23; 48 Stat. 882, 894, 895, 901; sec. 203(a), 49 Stat. 704, sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 88a; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78m(d)(1), 89m(d)(2), 78m(d)(5), 78m(d)(6), 78n(d)(1), 78w.)

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JUNE 30, 1978.

[FR Doc. 78-18995 Filed 7-10-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0119]

PART 131—MILK AND CREAM

Nonfat Dry Milk, Lowfat Dry Milk, Dry Whole Milk, and Dry Cream; Standards of Identity; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects the final rule that was published in the FEDERAL REGISTER of Tuesday, May 9, 1978, by changing the CFR citation on page 19836.

DATE: Effective May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-12513 appearing at page 19834 in the FEDERAL REGISTER of May 9, 1978, paragraph (d)(1) of § 131.127 *Nonfat dry milk fortified with vitamins A and D* (21 CFR 131.127) appearing on page 19836 is corrected in the third line by changing "16.131-16.18" to read "16.131-16.181."

Dated: July 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-19024 Filed 7-10-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Prednisolone Sodium Phosphate Injection, Sterile

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Burns-Biotec Laboratories Division. The application provides for safe and effective use of prednisolone sodium phosphate intravenous injection in dogs and horses when an adrenal glucocorticoid and/or anti-inflammatory effect is required.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Burns-Biotec Laboratories Division, Chromalloy Pharmaceutical, Inc., 7711 Oakport Street, Oakland, Calif. 94621, filed NADA 97-566V providing for intravenous injection of prednisolone phosphate in dogs and horses when an adrenal glucocorticoid and/or antiinflammatory effect is required. In addition, this document reflects the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of a similar product.

The drug prednisolone sodium succinate was one of several adrenocortical steroids evaluated by the NAS/NRC Drug Efficacy Study Group. The evaluation results were published in the FEDERAL REGISTER of April 12, 1969 (34 FR 6447). The NAS/NRC concluded that the subject adrenocortical steroids are effective as anti-inflammatory agents. The Food and Drug Administration concurred with the conclusions of the Academy and stated:

> These drugs are synthetic corticosteroids and possess glucocorticoid activity. They are not species specific and differ only in their anti-inflammatory potency and ability to manifest mineralocorticoid properties.

The results of blood studies comparing intravenous injections of The Upjohn Co.'s prednisolone sodium succinate, which was evaluated by NAS/NRC, with Burns-Biotec's prednisolone sodium phosphate have demonstrated the bioequivalency of the two products.

This document amends the regulations to indicate those conditions of use for which applications for identical products need not include certain types of efficacy data required for approval in § 514.111(a)(5)(vi) of the animal drug regulations (21 CFR 514.111(a)(5)(vi)). In lieu of that data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

In accordance with the freedom of information regulations and § 514.11 (e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety data and information submittted to support approval of this NADA is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 522 is amended by revising § 522.1883, to read as follows:

§ 522.1883 Prednisolone sodium phosphate injection, sterile.

(a)(1) *Specifications.* Each milliliter contains 20 milligrams of prednisolone sodium phosphate (equivalent to 14.88 milligrams of prednisolone) in sterile aqueous solution.

(2) *Sponsor.* See No. 000864 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) It is used in treatment of dogs when a rapid adrenal glucocorticoid and/or anti-inflammatory effect is necessary.[1]

[1]These conditions are NAS/NRC reviewed and deemed effective. Applications for these

Footnotes continued on next page

(ii) It is administered intravenously in a dosage of 2½ to 5 milligrams of prednisolone sodium phosphate per pound of body weight, initially for shock and shock-like states, followed by equal maintenance doses at 1-, 3-, 6-, or 10-hour intervals as determined by the condition of the animal. If permanent use is required, oral therapy (tablets) may be substituted. If therapy is to be withdrawn after prolonged use, reduce daily dose gradually over a number of days.

(iii) Do not use in viral infections. Except in emergency therapy, do not use with tuberculosis, chronic nephritis, Cushing's disease, or peptic ulcers. With infections, use appropriate antibacterial therapy with, and for at least 3 days after, discontinuance of use and disappearance of all signs of infection.[1]

(iv) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(v) Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

(b)(1) *Specifications.* Each milliliter of sterile aqueous solution contains 10 milligrams of prednisolone phosphate (as prednisolone sodium phosphate).

(2) *Sponsor.* See No. 000845 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Amount.* Administer intravenously as follows:

(*a*) *Horses.* 50 to 100 milligrams in ½ to 1 minute.[1] May be repeated at 12-, 24-, or 48-hour intervals in inflammatory, allergic, and stress conditions as required.

(*b*) *Dogs.* 2.5 to 5 milligrams per pound of body weight followed by maintenance doses at 1-, 3-, 6-, or 10-hour intervals for shock or shock-like states. If permanent use is required, oral therapy (tablets) may be substituted. When therapy is withdrawn after prolonged use, reduce daily dose gradually over a number of days.

(ii) *Indications for use.* It is used when an adrenal glucocorticoid and/or anti-inflammatory effect is required.[1]

(iii) *Limitations.* (*a*) Do not use in viral infections. Except in emergency therapy, do not use in animals with tuberculosis, chronic nephritis, or Cushing's disease. With infections, use appropriate antibacterial therapy with, and for at least 3 days after, discontinuance of use and disappearance of all signs of infection.

(*b*) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(*c*) Do not use in horses intended for food.

(*d*) Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date. This regulation is effective July 11, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: June 27, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine

[FR Doc. 78-18863 Filed 7-10-78; 8:45 am]

[4110-03]

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Nystatin-Neomycin-Thiostrepton-Triamcinolone Acetonide Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by E. R. Squibb & Sons, Inc., providing for the safe and effective use of a topical vanishing cream ointment for the treatment of superficial bacterial and candidal infections in dogs and cats. This product is equivalent to a topical petrolatum base ointment that is an approved new animal drug.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 560 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, N.J. 08540, filed an NADA (96-676V) providing for the safe and effective use of a nystatin, neomycin, thiostrepton, and triamcinolone acetonide vanishing cream ointment for topical treatment of dogs and cats. This product is used as an anti-inflammatory, antipruritic, antifungal, and antibacterial agent for superficial bacterial infections, and for inflammation and dry or exudative dermatitis associated with bacterial or candidal infections. This drug is similar to the petrolatum base ointment approved in § 524.1600a (21 CFR 524.1600a). The petrolatum ointment, originally approved June 9, 1960, was reviewed by the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) Panel and found to be effective with certain labeling modifications. A supplement reflecting this approval's compliance with the NAS/NRC review was published in the FEDERAL REGISTER of April 22, 1971 (36 FR 7583). The dermatologic claims of the vanishing cream ointment were found to be bioequivalent to the petrolatum base formulation. Both drugs have the same sponsor.

These amendments set forth those uses for which identical products can be approved without including certain types of efficacy data as required by § 514.111(a)(5)(iv) of the animal drug regulations. In lieu of that data, approval may require bioequivalency or similar data as noted in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. In addition, the existing regulations for use of these drugs are editorially revised to reflect the current format.

In accordance with the freedom of information regulations and § 514.11 (e)(2)(ii) (21 CFR 514.11(e)(2)(ii) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1, part 524 is amended in § 524.1600a by revising paragraphs (a) and (c) to read as follows:

§ 524.1600a Nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment.

(a) *Specifications.* Each milliliter of petrolatum base or each gram of vanishing cream base ointment contains: 100,000 units of nystatin; neomycin sulfate equivalent to 2.5 milligrams of neomycin base; 2,500 units of thiostrepton; and 1.0 milligram of triamcinolone acetonide.

* * * * * *

(c) *Conditions of use.*—(1) *Amount.* (i) For topical dermatological use:

Footnotes continued from last page
uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Clean affected areas and remove any encrusted discharge or exudate, and apply sparingly either ointment in a thin film.[1]

(ii) For otic use: Clear ear canal of impacted cerumen, remove any foreign bodies such as grass awns and ticks, and instill three to five drops of petrolatum base ointment. Preliminary use of a local anesthetic may be advisable.[1]

(iii) For infected anal glands and cystic areas: Drain gland or cyst and fill with petrolatum base ointment.[1]

(2) *Indications for use.* (i) Topically: Use either ointment in dogs and cats for anti-inflammatory, antipruritic, antifungal, and antibacterial treatment of superficial bacterial infections, and for dermatologic disorders characterized by inflammation and dry or exudative dermatitis, particularly associated with bacterial or candidal (*Candida albicans*) infections.[1]

(ii) Otitis, cysts, and anal gland infections: Use petrolatum base ointment in dogs and cats for the treatment of acute and chronic otitis and interdigital cysts, and in dogs for anal gland infections.[1]

(3) *Limitations.* For mild inflammations, use once daily to once a week. For severe conditions, apply initially two to three times daily, decreasing frequency as improvement occurs. Not intended for treatment of deep abscesses or deep-seated infections. Not for ophthalmic use. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date: This regulation becomes effective July 11, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: June 28, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-18862 Filed 7-10-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 221—OPERATIONS AND MAINTENANCE CHARGES

San Carlos Indian Irrigation Project, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rule deletes from the Code of Federal Regulations (CFR), regulations on the cost of operation and maintenance of the San Carlos Indian Irrigation Project. This action is necessary because all new assessment rates will be published as notice documents in the FEDERAL REGISTER, and the assessment rates will no longer appear in the CFR. The purpose of this rule is to delete the applicable section from the CFR. A notice establishing new assessment rates is being published in the FEDERAL REGISTER simultaneously with this regulation.

EFFECTIVE DATE: This regulation shall become effective July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

James L. McCabe, Project Engineer, San Carlos Irrigation Project, Post Office Box 456, Coolidge, Ariz. 85228, telephone 602-723-5439.

SUPPLEMENTARY INFORMATION:

The principal author of this document is Cecil A. Wright, Bureau of Indian Affairs, Phoenix, Ariz. 85011, telephone 602-261-4184.

Pursuant to § 191.1(e) of part 191, chapter 1, subchapter T of title 25 of the Code of Federal Regulations, this final regulation is published under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The authority to issue this regulation is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 385.

The regulation should read as follows:

§ 221.63 [Deleted]

Section 221.63 of part 221, chapter 1, subchapter T, of title 25 of the Code of Federal Regulations, is hereby deleted.

NOTE.—It is hereby certified that the economic and inflationary impacts of this final regulation have been carefully evaluated in accordance with Executive Order 11821.

HAROLD D. ROBERSON,
Acting Assistant Area Director.

[FR Doc. 78-19030 Filed 7-10-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 923-7]

PART 440—ORE MINING AND DRESSING POINT SOURCE CATEGORY

Effluent Limitations Guidelines for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule promulgates effluent limitation guidelines for existing facilities engaged in the mining and milling of base and precious metals, and iron, aluminum, ferroalloy, uranium, radium, vanadium, and mercury and titanium ores. The final regulation amends an interim final regulation which was promulgated on November 6, 1975 (40 FR 51722), and represents the degree of control achievable by the application of the best practicable control technology currently available (BPT). These guidelines are issued under the Federal Water Pollution Control Act and are intended to restrict the discharge of pollutants into the Nation's waters.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Branch Chief, Effluent Guidelines Division (WH-552), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2726.

SUPPLEMENTARY INFORMATION: Comments were solicited on the interim final rulemaking promulgated on November 6, 1975 (40 FR 51722). On May 24, 1976, the limitations guidelines for the base and precious metals subcategory, one section of the ferroalloy subcategory and the uranium, radium, and vanadium ores subcategory were suspended until November 1, 1976, and the comment period on these subcategories was extended until July 15, 1976 (41 FR 21191). On January 17, 1977, the suspension was extended until April 30, 1977 (42 FR 3165). Review of submitted comments and further analysis of the data base has resulted in a number of changes in the interim final regulations. Some of the comments submitted indicated that further clarification was required of certain terms and definitions used in the interim final regulations. The

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[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

preamble to the interim final regulation provides additional background information regarding the development of these regulations (40 FR 51722, November 6, 1975). Appendix A of this preamble contains a summary of the economic impact of these regulations. Appendix B of this preamble contains a list of the public participants in the rulemaking process as well as a summary of the major comments received on the interim final regulation and a summary of the Agency's response to these comments.

The regulations promulgated today only establish BPT effluent limitations guidelines pursuant to sections 301 and 304 of the Federal Water Pollution Control Act (33 U.S.C. 1311, 1314). The Agency is not promulgating pretreatment standards for the ore mining and dressing category because there are no known situations in which such standards would be applicable. The Agency is also not promulgating the regulations governing best available technology economically achievable by 1984 (BAT) or new source performance standards (NSPS) which were proposed on November 6, 1975. Rather, the Agency intends to promulgate BAT regulations and NSPS in 1979 which will be established after careful consideration of the discharge of certain "priority pollutants" from mines and mills in the ore mining and dressing category. This review of BAT technology is required by a settlement agreement approved by the U.S. District Court for the District of Columbia in *Natural Resources Defense Council et al.* v. *Train*, No. 2153-73.

Generally, it should be noted that the effluent limitations for this category are expressed in concentrations (e.g., milligrams per liter) rather than in units of production (e.g., pounds of pollutant per unit of product) because it was not possible to develop an easily applicable relationship between units of production and waste water discharged by mines and mills in this category.

The BPT effluent limitations in these regulations will enable EPA regions and States with authority to administer the act to better determine permit conditions for dischargers in the ore mining and dressing category where BPT permits have not yet been issued. BPT effluent limitations were to be achieved by July 1, 1977, however, it is EPA policy to provide some flexibility in this regard if a discharger has not been able to meet the deadline for reasons beyond his control. EPA regional enforcement officials should be contacted if any person has a question with regard to the applicability of these regulations to a particular discharger.

Summary and Basis of Effluent Limitations Guidelines

The report entitled "Development Document for Effluent Limitations Guidelines for the Ore Mining and Dressing Point Source Category, April 1978," details the analysis undertaken in support of these regulations and is available for inspection in the EPA Public Information Reference Unit, Room 2404, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. The economic analysis referenced below which was prepared for EPA on the potential effects of the regulation is also available for inspection at these locations. An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the National Technical Information Service, Springfield, Va. 22151.

Economic Analysis

The promulgated regulations are not expected to affect significantly prices, production, or capital availability. Little impact is expected on industry growth, employment, local economies or the balance of trade.

The potential economic impacts are discussed in greater detail in appendix A to this Preamble and in the report entitled "Economic Analysis of Effluent Limitations Guidelines: The Ore Mining and Dressing Industry."

The Environmental Protection Agency has determined that promulgation of these regulations does not require preparation of a regulatory analysis under Executive Order 12044.

Environmental Benefits

The effluent limitations guidelines promulgated today are based on the best practicable control technology currently available. The effluent limitations are not designed to obtain designated water quality levels in the streams and other receiving water bodies.

Section VI of the development document, selection of pollutant parameters, covers the rationale used in selecting the effluent characteristics controlled by these regulations. It is not practical in this preamble to summarize the many works that have been written on the environmental effects of waste water discharges from the ore mining and dressing point source category. In examining these works one can appreciate that significant environmental benefits will accrue should reduction in ore mining and dressing pollutant loadings be achieved.

Users of water in areas affected by the discharges from ore mines and mills include industrial plants, farms, utilities, municipal water supplies, and all who use these waters for recreational activities. The Agency has concluded there will be significant environmental benefits, both indirect and direct, if compliance with these regulations is accomplished.

Major Changes and Clarifications

After extensive review of comments on the interim final BPT regulations and additional studies, the Agency has made the following major changes and clarifications to the interim final regulations:

(1) The effluent limitations restricting the discharge of copper, lead, and zinc from mines and ore dressing mills in the base and precious metals subcategory have been adjusted slightly upward to reflect new data developed by the Agency and data supplied with industry comments on the interim final regulation. Ores included in the base and precious metals subcategory are: Lead, zinc, copper, gold, and silver. Copper and lead limitations were revised after a broad review of the industries in the subcategory demonstrated that discharges of copper and lead posed more complex problems than earlier and less comprehensive data indicated. The review also led to an increase in the number of "exemplary" facilities in the subcategory upon which BPT is based. (See section VII of the development document). The Agency believes that the facilities in this subcategory can meet the effluent limitations promulgated. Zinc limitations were revised slightly upward for both mills and mines in order to account for the wide variations in operating conditions within the subcategory as reflected in new data obtained by the Agency.

The effluent limitations restricting the discharge of cyanide from mills in the base and precious metals subcategory and the ferroalloy subcategory have been adjusted upward to reflect data developed by the Agency and data supplied with industry comments. Several questions were raised concerning the precision and accuracy of the method for measuring total cyanide and the sampling and preservation of samples for measuring total cyanide. Specific treatment for the removal of cyanide is currently limited in the industry. The transfer of technology from other industries to treat cyanide discharges for the ore mining and dressing industry may not be favorable due to the extremely high volumes associated with discharges from some ore dressing mills. However, it has been demonstrated that as practicable technology, the use of cyanide as a flotation reagent can be controlled in the mill process thereby reducing the concentration of cyanide in the raw waste water discharged by the mill. Also, in a properly designed and maintained tailings pond, natural aeration occurs which reduces the concentration of

cyanide discharged in the effluent. Additionally, some mills are practicing recycle of portions of waste water streams to reduce the use of cyanide in the mill process. The Agency, therefore, believes that with the control of the use of cyanide and the aeration obtained in a properly designed and maintained tailings pond, the effluent limitations promulgated for the control of cyanide can be met. In the reivew of the BAT technology mentioned above, the Agency will do additional sampling and analysis for cyanide and it is anticipated that the limitations promulgated today for the control of cyanide may be further controlled as cyanide is included in the "priority pollutants" being reviewed.

(2) The effluent limitations governing discharges from mills processing uranium have been adjusted to allow a discharge subject to stringent limitations because the impact on groundwater quality, the economic impact and the water consumption impact of a no discharge standard was deemed by the Agency to be unacceptable under certain circumstances.

EPA undertook an extensive review of the interim final no discharge requirement for mills in the uranium, radium, and vanadium ores subcategory.

Many companies engaged in the mining and beneficiation of uranium commented that this effluent limitation was too stringent for mines and mills located in areas where annual precipitation and annual evaporation are essentially equal. The comments also pointed out that some mills with present point source discharges are located in areas where large impoundment facilities or ponds cannot be located near the mine and mill area. These mines and mills would be forced to make large expenditures for additional land, piping, and pumping facilities to impound the discharges from their mills. Similar comments were also received from other Federal agencies. Additionally, it was pointed out that the no discharge limitation from uranium mills would increase the amount of untreated waste water which could seep into groundwater. Current estimates of this waste water seepage into the groundwater amounts to as much as 50 percent of the process waste water. The disposal of these pollutants through seepage might interfere with the implementation and goals of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the Resource Conservation and Recovery Act (42 U.S.C.A. 6901 et seq.).

The effluent limitations promulgated today for uranium, radium, and vanadium ore mills are stringent and it is recognized that for a mining company to install the treatment required to meet these effluent limitations will be expensive. The discharge limitations for uranium mills are based on treatment technologies which include: Ion exchange, ammonia stripping, barium chloride coprecipitation, lime precipitation, aeration, and settling technologies including flocculation. (See section VIII of the development document) The Agency therefore believes that those mining companies located in arid regions which are presently not discharging pollutants will continue to impound the uranium mill process water, recycle a portion of the process water and evaporate the remainder. It should also be noted that it is the policy of the Agency that if any discharger has received a final NPDES permit which calls for compliance with limitations more stringent than those later published in the FEDERAL REGISTER, the discharger is still obligated to meet the terms of that prior permit.

(3) The effluent limitations governing the discharge of radium 226 from uranium mines have been adjusted. This adjustment is necessary to implement the Agency's policy to minimize the discharge of radioactive materials onto the land and into the Nation's waters. It should be noted also that EPA and NRC have reached agreement, in light of *Train v. Colorado PIRG*, 96 S. Ct. 1938 (1976), that it is appropriate for EPA to regulate the discharge of uranium from uranium mines.

(4) The effluent limitations governing the placer mining of gold have been reserved pending a determination of the economic impact of such regulations in the remote areas of Alaska where most placer mining takes place.

(5) The concept of allowing an excursion for waste water treatment facilities designed, constructed, maintained, and operated to control a "10-year, 24-hour precipitation event" has been clarified. A discharge may be made from such a facility. Simply put, each discharger should design, construct, and properly operate their treatment facilities. The treatment facility should be sized to include the volume of water that would result from a "10-year, 24-hour precipitation event" at the mine or mill. A "10-year, 24-hour precipitation event" is a measurement of precipitation in inches of water which can be found from the isopluvial maps in "Rainfall Frequency Atlas of the United States," a publication of the U.S. Department of Commerce. For example, using the "10-year, 24-hour precipitation event" for Coeur D'Alene, Idaho, a treatment facility should be sized to include the volume of water that would result from 2.2 inches of rain over the mine and mill area covered by the regulation. Thus, should a rainfall or snowmelt cause an overflow or discharge of effluent that is not within the effluent limitations, the discharge will be allowed provided the treatment facility had been properly constructed, operated, and maintained to meet the stated design. The soundness and justification for the specific design, construction, operation, and maintenance of the waste water treatment facility is left to the operator or owner of the mine or mill. Should any evidence be submitted to the Agency to indicate that the impoundment facilities needed to meet these regulations would necessitate construction of a structure which would violate safety standards established by a State or Federal Agency, EPA will consider the granting of a variance on an expedited basis. Under no circumstances will an owner or operator be required to violate safety standards in order to meet these regulations.

(6) These BPT effluent limitations are applicable to facilities discharging water from ore mining and milling operations. However, some operations, known as complex facilities, combine waste streams from other processes such as refining and smelting with their ore mining and milling wastes, and this combined waste stream is then treated for discharge. These guidelines should not be applied to such facilities, but the effluent limitations contained herein do provide a basis for facility-specific limitations. That is, limitations for complex facilities would include, where appropriate, allowances for the contributions of waste waters attributable to processes which are not the result of ore mining and milling operations. Additionally, "complex treatment facilities" will be covered by BAT regulations on the basis of ongoing studies regarding the characteristics of such combined wastes and further evaluation of the technology necessary to treat such wastes. In the interim, additional consideration should be given to existing control and treatment capability practicable at these facilities.

(7) The ore mining and dressing point source category has been divided into seven major subcategories based on the metal ore mined or processed, type of mill process, waste water characteristics, and treatability of the waste water. (See section IV of the development document.) The Agency recognizes that raw waste water at some mines and mills in a subcategory may not contain detectable or substantial quantities of a pollutant controlled in that subcategory. Where the raw waste water does not contain a pollutant controlled in detectable quantities or the pollutant is in substantially less concentration than the effluent limitation on a consistent basis, a permit may allow the pollutant to be monitored on a less frequent schedule than the other pollutants controlled by the permit. (See 40 CFR Part 125.27). This less frequent schedule will verify that the pollutant has

not been introduced into the discharge by, as example, a change in the process or a change in the mineralogy of the ore mined. Such modification to monitoring requirements will be considered on a case-by-case basis by the Agency issuing the permit.

SMALL BUSINESS ADMINISTRATION LOANS

Section VIII of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operations so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program, write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

Dated: June 28, 1978.

BARBARA BLUM,
Acting Administrator.

Part 440 is revised to read as follows:

Subpart A—Iron Ore Subcategory

Sec.
440.10 Applicability; description of the iron ore subcategory.
440.11 [Reserved]
440.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—Base and Precious Metals Subcategory

440.20 Applicability; description of the base and precious metals subcategory.
440.21 [Reserved]
440.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Aluminum Ore Subcategory

440.30 Applicability; description of the aluminum ore subcategory.
440.31 [Reserved]
440.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Ferroalloy Ores Subcategory

440.40 Applicability; description of the ferroalloy ores subcategory.
440.41 [Reserved]
440.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Uranium, Radium and Vanadium Ores Subcategory

Sec.
440.50 Applicability; description of the uranium, radium and vanadium ores subcategory.
440.51 [Reserved]
440.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Mercury Ores Subcategory

440.60 Applicability; description of the mercury ores subcategory.
440.61 [Reserved]
440.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart G—Titanium Ore Subcategory

440.70 Applicability; description of the titanium ore subcategory.
440.71 [Reserved]
440.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best-practicable control technology currently available.

Subpart H—General Provisions and Definitions

440.80 Applicability.
440.81 General Provisions
440.82 General Definitions.

AUTHORITY: Secs. 301 and 304(b), Federal Water Pollution Control Act, as amended 33 U.S.C 1311 and 1314(b).

Subpart A—Iron Ore Subcategory

§ 440.10 Applicability; description of the iron ore subcategory.

The provisions of this subpart are applicable to discharges from (a) mines operated to obtain iron ore, regardless of the type of ore or its mode of occurrence; (b) mills beneficiating iron ores by physical (magnetic and non-magnetic) and/or chemical separation and (c) mills beneficiating iron ores by magnetic and physical separation (Mesabi Range).

§ 440.11 [Reserved]

§ 440.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to Subpart H—General Provisions and Definitions, the following limitations establish the concentrations of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Fe (dissolved)	2.0	1.0
pH	Within the range 6.0 to 9.0	

(2) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristic	Effluent limitation: Maximum for any 1 day	Effluent limitation: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Fe (dissolved)	2.0	1.0
pH	Within the range 6.0 to 9.0	

(3) There shall be no discharge of process waste water from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

Subpart B—Base and Precious Metals Subcategory

§ 440.20 Applicability; description of the base and precious metals subcategory.

The provisions of this subpart are applicable to discharges from (a) mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores or any combination of these ores from open-pit or underground operations other than placer deposits; (b) mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores or silver ores or any combination of these ores; (c) mines and mills which employ dump, heap, in situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials; (d) mills which extract gold or silver by the cyanidation process alone; (e) mills

which extract gold or silver by the amalgamation process alone; and (f) mines or mines and mills beneficiating gold ores, silver ores, tin ores or platinum ores by gravity separation methods, (this includes placer or dredge mining or concentrating operations, and hydraulic mining operations).

§ 440.21 [Reserved]

§ 440.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores or any combination of these ores from open-pit or underground operations other than placer deposits shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cu	.30	.15
Zn	1.5	.75
Pb	.6	.3
Hg	.002	.001
pH	Within the range 6.0 to 9.0	

(2) The concentration of pollutants discharged from mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores, or silver ores or any combination of these ores shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cu	.30	.15
Zn	1.0	.5
Pb	.6	.3
Hg	.002	.001
Cd	.10	.05
CN	.20	.10
pH	Within the range 6.0 to 9.0	

(3) There shall be no discharge of process waste water from mines and mills which employ dump, heap, in situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(2) of this section.

(4) There shall be no discharge of process waste water from mills which extract gold or silver by use of the cyanidation process alone except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

(5) The concentration of pollutants from mills which extract gold or silver by use of the amalgamation process alone shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cu	.30	.15
Zn	1.0	.5
Hg	.002	.001
pH	Within the range 6.0 to 9.0	

(6) The concentration of pollutants discharged in mine drainage from mines or discharged from mine and mill complexes beneficiating gold ores, silver ores or platinum ores by gravity separation methods including mining of placer deposits, dredge mining and hydraulic mining operations shall not exceed:

[Reserved]

Subpart C—Aluminum Ore Subcategory

§ 440.30 Applicability; description of the aluminum ore subcategory.

The provisions of this subpart are applicable to discharges from facilities engaged in the mining of bauxite as an aluminum ore.

§ 440.31 [Reserved]

§ 440.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section, which may be discharged by a point source after application of the best practicable control technology currently available:

The concentration of pollutants discharged in mine drainage from mines producing bauxite ores shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Fe	1.0	.5
Al	2.0	1.0
pH	Within the range 6.0 to 9.0	

Subpart D—Ferroalloy Ores Subcategory

§ 440.40 Applicability; description of the ferroalloy ores subcategory.

The provisions of this subpart are applicable to discharges from (a) mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year; (b) mines producing less than 5,000 metric tons (5,512 short tons) and mills processing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching; (c) mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely physical methods including ore crushing, washing, jigging, heavy media and gravity separation, and magnetic and electrostatic separation; and (d) mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods. Ferroalloy metals include: chromium, cobalt, columbium, tantalum, manganese, molybdenum, nickel, tungsten and vanadium (recovered alone and not as a by-product of uranium mining and mills).

§ 440.41 [Reserved]

§ 440.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H-General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy bearing ores per year shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.3	.15
Zn	1.0	.5
Pb	.6	.3
As	1.0	.5
pH	Within the range 6.0 to 9.0	

(2) The concentration of pollutants discharged in mine drainage from mines producing less than 5,000 metric tons (5,512 short tons) or discharged from mills processing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	50	30
pH	Within the range 6.0 to 9.0	

(3) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely physical methods including ore crushing, washing, jigging, heavy media separation, and magnetic and electrostatic separation shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
pH	Within the range 6.0 to 9.0	

(4) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
CN	.20	.10
pH	Within the range 6.0 to 9.0	

Subpart E—Uranium, Radium and Vanadium Ores Subcategory

§ 440.50 Applicability; description of the uranium, radium and vanadium ores subcategory.

The provisions of this subpart are applicable to discharges from (a) mines, either open-pit or underground, from which uranium, radium and vanadium ore are produced; and (b) mills using the acid leach, alkaline leach, or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium. Only vanadium by-product production from uranium ores is covered under this subpart.

§ 440.51 [Reserved]

§ 440.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, from which uranium, radium and vanadium ores are produced excluding mines using in-situ leach methods shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
COD	200	100
Zn	1.0	0.6
Ra226* (dissolved)	10	3
Ra226* (total)	30	10
U	4	2
pH	Within the range 6.0 to 9.0	

*Values in picocuries per liter (pCi/l).

(2) The concentrations of pollutants discharged from mills using the acid leach, alkaline leach or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium including mill-mine facilities and mines using in-situ leach methods shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
COD		500
As	1.0	.6
Zn	1.0	.6
Ra226*(dissolved)	10	3
Ra226*(total)	30	10
NH3		100
pH	Within the range 6.0 to 9.0	

*Values in picocuries per liter (pCi/l).

Subpart F—Mercury Ore Subcategory

§ 440.60 Applicability; description of the mercury ore subcategory.

The provisions of this subpart are applicable to discharges from (a) mines, either open-pit or underground, operated for the production of mercury ores; and (b) mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

§ 440.61 [Reserved]

§ 440.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source sub-

part after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, operated for the production of mercury ores shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Hg	.002	.001
Ni	.2	.1
pH	Within the range 6.0 to 9.0	

(2) There shall be no discharge of process waste water from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

Subpart G—Titanium Ore Subcategory

§ 440.70 Applicability; description of the titanium ore subcategory.

The provisions of this subpart are applicable to discharges from (a) mines obtaining titanium ores from lode deposits; (b) mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods; and (c) mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, and other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods).

§ 440.71 [Reserved]

§ 440.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines obtaining titanium ores from lode deposits shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Fe	2.0	1.0
pH	Within the range 6.0 to 9.0	

(2) The concentration of pollutants discharged from mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Zn	1.0	.5
Ni	.2	.1
pH	Within the range 6.0 to 9.0	

(3) The concentration of pollutants discharged in mine drainage from mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, or other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods) shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	30	20
Fe	2	1
pH	Within the range 6.0 to 9.0	

Subpart H—General Provisions and Definitions

§ 440.80 Applicability.

Except as provided in these general provisions and definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to part 440. The general provisions and definitions set forth in this subpart H apply to all subparts of the part 440.

§ 440.81 General Provisions.

(a) In establishing the limitations set forth in 40 CFR 440, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and established effluent limitations. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different factors. If fundamentally different factors are found to exist, the Regional Administrator or the State shall establish effluent limitations in the NPDES permit accordingly. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations or initiate proceedings to revise 40 CFR 440.

(b) In the event that waste streams from various subparts or segments of subparts in part 440 are combined for treatment and discharge, the quantity or quality of each pollutant or pollutant property in the combined discharge that is subject to effluent limitations shall not exceed the quantity or quality of each pollutant or pollutant property that would have been discharged had each waste stream been treated separately. The discharge flow from a combined discharge shall not exceed the volume that would have been discharged had each waste stream been treated separately.

(c) Any excess water, resulting from rainfall or snowmelt, discharged from

facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in 40 CFR 440.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the pH limitations set forth, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the other effluent limitations in the permit will be achieved. In no case shall the pH of the final effluent exceed 9.5. In the case of a discharge into natural receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and approved water quality standards authorize such lower pH, the pH limitations for the discharge may be adjusted downward to the pH water quality criterion for the receiving waters provided the other effluent limitations for the discharge are met. In no case shall a pH limitation below 5.0 be permitted.

§ 440.82 General definitions.

(a) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(b) The term "mine" means an active mining area, including all land and property placed upon, under or above the surface of such land, used in or resulting from the work of extracting metal ore from its natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles derived from the mining, cleaning, or concentration of metal ores.

(c) The term "mine drainage" means any water drained, pumped or siphoned from a mine.

(d) The term "ten year 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom.

(e) The term "mill" means a preparation facility within which the metal ore is cleaned, concentrated or otherwise processed prior to shipping to the consumer, refiner, smelter or manufacturer. A mill includes all ancillary operations and structures necessary for the cleaning, concentrating or other processing of the metal ore such as ore and gangue storage areas, and loading facilities.

(f) The terms "annual precipitation" and "annual evaporation" mean the mean annual precipitation and mean annual lake evaporation respectively, as defined in the publication, "Climatic Atlas of the United States", "U.S. Department of Commerce, Environmental Science Services Administration, Environmental Data Services, June 1968 or equivalent regional rainfall and evaporation data.

(g) The effluent characteristic "U" (Uranium) is measured by the procedure discussed in the "HASL Procedural Manual," edited by John H. Harley, HASL 300 Health and Safety Laboratory, U.S. Atomic Energy Commission, 1973, pg. EU-03, or an equivalent method.

APPENDIX A

ECONOMIC IMPACT

As a result of BPT regulations ore mines and mills are expected to invest approximately $18,170,200 (in 1972 dollars). The annualized costs of BPT, which included amortization charges at eight percent over the useful life, and operations and maintenance expense, are predicted to total approximately $5,282,800 (in 1972 dollars). The costs by industry category are detailed in the following table.

COSTS BY INDUSTRY CATEGORY TO COMPLY WITH BPT EFFLUENT GUIDELINES LIMITATIONS

[In thousands of 1972 dollars except where noted]

Industry	Capital cost	Annualized cost [1]
Iron	274.2	204.1
Base and precious metals:[2]		
Copper	2.5	.5
Lead and zinc	4,792.2	1,891.5
Gold	8,192.8	1,753.2
Silver	323.8	161.4
Aluminum	383.2	224.8
Ferroalloys	522.0	201.5
Uranium, radium, and vanadium	[3]3,583.3	[4][5]805.9
Mercury		
Titanium	96.2	39.9
Total	18,170.2	5,282.8

[1] Includes amortization (at 8 percent) over the life of the equipment, operating and maintenance expenses.

[2] Includes no estimates for complex treatment facilities which treat mining and milling wastes with wastes from other operations.

[3] 1,027 of this estimate is in 1976 dollar terms.

[4] 1,125 of this estimate is in 1976 dollars terms.

[5] Includes a credit for product recovery.

(i) Energy requirements and nonwater quality environmental impacts.

Energy requirements for compliance with the effluent limitations and standards are low. The main use of energy is for pumps, mixers and control instruments. Wherever feasible, gravity flow is used in treatment facilities for mine drainage and mill process waste water. Mine dewatering is considered an inherent part of the mining operation and not part of water pollution control.

Inherent in ore dressing are major problems with solid waste disposal in the form of tailings. Large areas of tailings are a source of air pollution. Where radioactive ores are milled, radioactive substances are found in the tailings disposal area. The amount of additional waste and the resultant air pollution and radioactive hazards produced as a result of compliance with the regulations is insignificant relative to that already present. Consequently, a minimal additional impact is expected.

(ii) Economic impact analysis. These regulations are not predicted to affect prices significantly. In no instance is all of industry's production affected, and only for gold and tungsten is the annualized cost of compliance more than one percent of sales for the affected operations. Since only a portion of any industry's output is affected, the impact on prices should be even less than the ratio of the annualized costs to sales. This occurs because competition from unaffected firms will often prevent all costs from being passed on by the affected firms.

One lead and zinc mine and mill may close as a result of this regulation. If it closes, from 90 to 120 jobs could be lost with a resultant community impact. The reduction in total domestic production would be approximately two percent which is not a large enough decline to affect prices significantly. In addition, up to 17 small tungsten mines employing a total of approximately 50 people could close. However, because they move in and out of the market in response to the price, none of these operations could be identified. They account for only about 0.1 percent of the ferroalloy production.

Other than the potential impacts on the lead-zinc and tungsten operations, little effect is expected on prices, production, capital availability, industry growth, employment, local economies or the balance of trade.

APPENDIX B

SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of interim final rulemaking for the ore mining and dressing point source category published November 6, 1975 (40 FR 51722), and in the notice of public review procedures published October 6, 1973 (38 FR 21202). In addition, the regulations as promulgated in interim final form were supported by two documents: (1) the document entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category" and (2) the document entitled "Economic Impact of Proposed Effluent Limitations Guidelines, the Ore Mining and Dressing Industry." These documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of interim final rulemaking.

Prior to the publication of the notice of interim final rulemaking (40 FR 51722) a draft development document was distributed to Federal agencies, all State and Territorial pollution control agencies, industry trade associations and conservation organizations. Comments on that report were solicited. The major comments received and the Agency's response were described in the notice of interim final rulemaking (40 FR 51722).

Interested persons were again invited to participate in the rulemaking by submitting written comments following the publication

of the interim final regulations (40 FR 51722) and a notice of suspension of the interim final regulation (40 FR 21191).

The following responded to the request for written comments contained in the notice of interim final rulemaking and the notice of suspension of the interim final rulemaking: Alaska Department of Environmental Conservation; Aluminum Corporation of America; Amax Inc.; American Cyanamid Co.; American Iron Ore Association; American Mining Congress; Anaconda; Asarco; Beistline E. H.; Bethlehem Steel Corp.; Bunker Hill Co.; Cities Service Co.; Cleveland Cliffs Iron Co.; Colorado Department of Health; Colorado River Water Conservation District; Continental Oil Co.; Dutch Creek Mining Co.; Eagle-Picher Industry, Inc.; E. I. du Pont de Nemours & Co.; Effluent Standards and Water Quality Information Advisory Committee; Gardinier Inc.; Gulf Mineral Resources Co.; Hanna Mining Co.; Hecla Mining Co.; Homestake Mining Co.; Jones, Wayne F.; Jones & Laughlin Steel Corp.; Kennecott Copper Corp.; Kerramerican, Inc.; Kerr-McGee Chemical Corp.; Kerr-McGee Nuclear Corp.; Minnesota Pollution Control Agency; New Jersey Zinc Co.; Ohio Environmental Protection Agency; Phillips, John; Phillips Petroleum Co.; Resource Associates of Alaska, Inc.; Reynolds Aluminum; Rosander, Ronald; St. Joe Mineral Corp.; Sunshine Mining Co.; Tennessee Valley Authority; Texas Water Quality Board; Union Carbide Corp.; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health, Education, and Welfare; U.S. Department of Interior; U.S. Energy Research and Development Administration; Environmental Protection Agency; U.S. Water Resources Council; Utah International Inc.; University of Alaska; Western Nuclear Inc.; Wisconsin Department of Business Development; Wisconsin Department of Natural Resources; and Wisconsin State Senate—17th Senate District.

(1) Several commenters questioned the effluent limitations for mine drainage or discharges from mine and mill complexes beneficiating gold ores, silver ores, tin ores or platinum ores by gravity separation or placer mining. Several commenters stated that it was not clear why total suspended solids (TSS) was selected as the effluent characteristic limited and instead recommended turbidity or settleable solids as the effluent characteristic since these effluent characteristics have been monitored in the past. Several commenters stated that the streams were naturally higher in TSS than the specified limitation because of unique geological conditions such as fine grained glacial sediments. Compliance with the limitations would require substantial capital investment. Another commenter objected to basing the limitations on data from the hardrock gold mining industry since hydraulic mining methods are entirely different and have unique problems. One commenter stated that the test for TSS is most difficult for the permittee because of remote mine and lack of lab facilities and suggested monitoring for settleable solids. One commenter requested further subcategorization for placer mining based on size of the operation or number of persons employed because of economic considerations. One commenter stated that because the operations are in remote locations, technology such as the use of flocculating agents would be difficult and costly.

Effluent limitations for placer mining in base and precious metals subcategory are not included in these regulations because, though the technical study and evaluation are complete, the economic impact analysis posed unique problems which have not been resolved.

It is recognized that the placer operations are different from most other mines and that the data base was limited. Additional data specific to placer mining has been developed and the special problems of the remote areas have been considered. It was determined that total suspended solids is not a tenable parameter for locations as remote as many placer mining operations and that limiting settleable solids would be more reasonable and technically feasible. It has also been determined that placer operations have a detrimental effect on water quality and that treatment improved the water quality. Waters above mining operations were judged to be of high quality, whereas the discharged process water was generally of poor quality. Treatment facilities in many operations were considered inadequate and construction of reasonable treatment facilities such as settling ponds is technically feasible. Most of these settling facilities could be built within a short time period with equipment used in the operation of the mine. Sport or recreational placer mining or panning operations are excluded from regulation. Further subcategorization is not possible because no correlation can be determined between the method of operation or size of operation with the amount of ore material moved and the effect on treatment technology.

(2) Several commenters objected to the requirement to design, construct, and operate the treatment facilities to treat all process generated waste water and the surface runoff to the facilities resulting from a 10-year, 24-hour precipitation event. Several commenters requested clarification of this statement since there was more than one interpretation. Another commenter stated that the provision does not allow for a discharge where runoff from rapid snow-melt exceeds the provision or for discharge resulting from multiple storms that exceeds the provision. One commenter stated that this provision should be considered on a case by case basis and that treatment or storm water should not be included. One commenter was concerned that at least once every decade this provision would subject lakes and streams to high levels of pollutants and that management techniques are available to contain or treat this waste water.

The effluent limitations guidelines provide that any excess water, resulting from rainfall or snowmelt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth. This does not mean that only after a rainfall equalling or exceeding the 10-year, 24-hour precipitation event may untreated effluent be discharged. It means that after a precipitation event or snowmelt which forces an overflow, bypass, or increase in the volume of point source discharge from a facility designed, constructed and maintained to contain or treat the amount of water which results from the 10-year, 24-hour, precipitation event, the overflow, bypass or increase in volume of the point source discharge shall be permitted. The 10-year, 24-hour, precipitation event is a figure which for each geographical area of the country, can be determined by referring to the reference cited in § 440.82(d).

From a review of the relevant regulations and design guidelines, and from discussions with representatives of the appropriate Federal regulatory agencies, EPA is confident that the impoundment facilities needed to comply with the regulations promulgated today are reasonable, and that there is no additional danger caused by implementation of these regulations. Should any evidence be submitted to the Agency to indicate that the impoundment facilities needed to meet these regulations would necessitate construction of a structure which would violate safety standards set out by a State or Federal agency, EPA will consider the granting of a variance on an expedited basis. Under no circumstances will an owner or operator be required to violate applicable safety standards in order to meet these regulations. If difficulty arises in more than isolated instances, consideration will be given to amendment of these regulations. It must be emphasized, however, that the State and Federal authorities with whom EPA has consulted on this matter uniformly concluded that no safety issues are raised by the use of a 10-year, 24-hour precipitation event as a design criteria.

The effluent limitations guidelines merely state a final limitation on the amount of pollutants which may be discharged from this industry, and allow for an excursion from the normal requirements when there is a discharge from a facility properly designed to contain or treat a large precipitation event.

While there has been criticism of the 10-year, 24-hour formula used by the Agency, the alternatives suggested are substantially less satisfactory. Use of a provision which allows for the release of waste water when there is an unusual precipitation event is not restricted solely to the mining extraction industries; such an allowance, excursion, or exemption has been used in several other industries in which the major source of pollution results from rainfall runoff. For example, when attempting to control the discharges of highly polluting wastes from feedlot operations, the regulatory authority must necessarily consider the feasibility of containing large quantities of rainfall runoff. These considerations were raised during the consideration of the Federal Water Pollution Control Act Amendments of 1972 ("FWPCA") and there is prominent mention of the 10-year, 24-hour storm event as a realistic method of addressing the problem.

(3) Several commenters stated that the pH range 6-9 should be flexible. One commenter stated that discharge of process water (pH 6-9) to natural waters with a pH below 6 would be harmful to the ecological system of that body of water. Another commenter replied that because of the treatment required for precipitation of metals in raising the pH above 9 it then becomes necessary to lower the pH by adding acid. This acid contains material that may be equally harmful to the streams.

In the case of a discharge into natural receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality standards approved under the act authorized such lower pH, the pH limitations for the discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation below 5.0 be permitted. In the case of requiring neutral-

ization by adding acid after lime treatment, the pH limitation shall be adjusted upward to 9.5 (see, § 440.81(d)). At pH 9.5 which is near the optimum pH range for precipitating specific metals, no neutralization would be required. It is anticipated this flexibility will minimize the environmental hazards previously associated with pH adjustment slightly over 9 to less than 9. However, where higher pH is required to precipitate specific metals, neutralization with acid may be required.

(4) One commenter stated that control of metals discharged by the bauxite industry could be achieved by limiting pH and TSS.

Solubilities of metal ions vary according to the pH of the solution. Control of the pH for reduction of a particular ion or ions should be optimized for that ion or ions. This must be accomplished on an individual basis.

(5) Several commenters questioned the limitations specifying total metals and recommended limiting dissolved metals as in some present water quality monitoring. Several commenters stated that the present NPDES permits specify dissolved metals and that submitted industry data used in the development document are analysis for dissolved metals. One commenter stated that analyses for the suspended portion of Ra226 is a problem unless methods are specified. One commenter stated that the analysis for total metals should reflect the solubilization potential under natural conditions by preserving the sample at pH2 but analyzing the sample at pH6.

The objective in limiting total metals in an effluent is to minimize the potential problems of metals redissolving in the environment or solubilizing within living organisms. Total metal analysis were performed by the contractors. This data was used to supplement the data received from the industry. The data has been examined to make certain that no dissolved metal analysis were used directly in establishing limitations. The sampling and analysis procedures are specified in 40 CFR Part 136 (41 FR 52780); Procedures for Analysis of Pollutants, for all parameters except Uranium which is specified under the heading General Definitions in Subpart H (see, § 440.82(g)).

(6) Several commenters stated the following problems with recycle of waste water in achieving zero discharge: (a) The pumping and piping cost is excessive for facilities where land is not available for constructing the tailings pond adjacent to the mill. (b) Many mills are associated with adjacent mines and have abundant mine water for use as mill feed and in some cases the use of mine water enhances product recovery. Thus, no recycle is necessary as far as mill feed is concerned. (c) Several mills are using the coarse sands with cement in backfilling the mined out stopes. The mine water becomes more difficult to recycle as mill feed. (d) The concentration of reagents and dissolved solids in the mill pond hinders the recovery of the product when recycled to the mill.

Several milling operations which were included in the study to develop this regulation have made modifications to their mill process in order to obtain complete recycle or partial recycle with minimal loss of recovery. Most of these facilities are located in water short areas, but the technology for net precipitation areas would be very similar. The Agency has no data available to show that an accumulation of dissolved solids or process reagents would reduce recovery of product. The Agency has recognized other problems associated with the uranium industry and has amended no discharge to discharge limitations for this subcategory, see comment (7) below. However, the Agency encourages the greatest use of recycle in every case.

(7) Several commenters questioned the requirements of no discharge as BPT. One commenter stated the no discharge requirement does not consider the problems of impoundment in water short areas where conservation of water and reuse by downstream users is necessary. Several commenters referred to other possible State or Federal requirements which would eliminate seepage into the ground water from impoundment ponds and requested that lining of impoundment ponds be included in the cost evaluation of compliance. One commenter requested deep well disposal technology be included as BPT in order to meet no discharge. Another commenter stated that the operations obtaining zero discharge which are included as exemplary plants were located in areas of high net evaporation and that cost to meet zero discharge outside of these areas would be excessive.

The Agency has determined that no discharge for the uranium industry should be replaced by stringent discharge limitations. Treatment technologies to meet the revised limitations may include barium chloride coprecipitation, ion-exchange, ammonia stripping, lime precipitation, aeration and flocculating and settling technology. These stringent discharge limitations are believed adequate to both protect the environment and allow some flexibility in meeting the regulations. The other categories with no discharge requirements for BPT include: iron ore mills that employ magnetic and/or physical methods to beneficiate iron ore; base and precious metals, mills employing leaching techniques, and mills employing cyanidation process; and mercury mills. Most of the mills in these categories are presently obtaining zero discharge or have plans for doing so. Deep well disposal is not addressed as BPT technology as the Agency is in the midst of promulgating regulations governing deep well disposal practices under the Safe Drinking Water Act. Nonetheless, under limited circumstances it may be possible for a discharger to meet a no discharge limitation by injecting process waste water underground.

(8) Several commenters questioned the cost/benefit analysis for the interim final regulation. The commenters stated that the cost/benefit effect of the regulation was particularly significant for individual operations that were discharging to ephemeral streams, for operations with higher levels of pollutants in the background water than in the discharge limitation, for mines with excessive amounts of mine water to treat, for operations with a no discharge requirement and limited land available for impoundment ponds, and for operations which may close within a short period due to limited ore reserves.

An economic impact analysis was prepared for the Agency in support of the interim final BPT guidelines limitations. This analysis was based upon the cost estimates detailed in chapter 8 of the Development Document. The analysis showed that the limitations were generally economically feasible and that they would not generally have significant adverse impacts upon prices, production, capital availability, industry growth, employment, local economies or the balance of payments.

In response to several comments on the interim final regulations, the Agency reevaluated the treatment costs for several facilities. In addition, the Agency has reviewed the subcategorization of the regulations and the appropriateness of its limitations. For example, the limitation for uranium mills have been changed from zero discharge to an allowance of various parameters. The economic analysis has been revised to reflect the new cost information. It now appears, for example, that one lead and zinc mine and mill operation with relatively short remaining life may close rather than incur the cost of these regulations. However, while it is expected that there will be a loss of jobs, and a resulting community effect, the impact upon the ore mining industry as a whole is not considered significant.

(9) Several commenters questioned the Agency's determination that effluent guidelines for the ore mining and dressing industry would require a capital investment of less than $100,000,000 or an annualized cost less than $50,000,000, and questioned the Agency's decision not to prepare an inflation impact statement. Several commenters stated that cost should be estimated on a case-by-base basis and that cost for their individual company is excessive.

The Agency has completed and distributed the study, "Analysis of Economic Impact of Proposed Effluent Limitations Guidelines for the Metallic Ore Mining and Dressing Industry." This study assessed both internal and external impacts of the proposed guidelines. Internal impact consist of incremental capital and operating cost necessary to comply with the effluent guidelines. External cost include price changes, production and employment changes, balance of payment impacts, community and regional impacts and consequences for industry growth. The incremental compliance cost (1972 dollars) for BPT for the ore mining and dressing industry amount to a capital cost of $18,170,200 and operating cost of $5,282,800. These costs are incremental, recognizing that much of the industry have facilities in place and or in compliance or near compliance. Many of the companies need only to optimize current treatment in order to meet the limitations.

(10) Several commenters requested clarification of the provision which allows a discharge when net precipitation exceeds net evaporation and requested the method of determining the amount of discharge. Several commenters wanted the provision to allow a discharge on a periodic or monthly basis and to include runoff from snowmelt. One commenter requested the provision be dropped for the iron ore mining industry and stated that through recycle and management practices this water could be contained in a closed cycle.

The precipitation and evaporation data may be determined by site specific, self monitoring data or historic data. Precipitation data includes snowmelt. This provision which allows a discharge from facilities which have no discharge requirements was determined to be necessary because of the excessive amounts of waste water involved in some operations and safety requirements for impoundments of such large capacity. However, diversion ditches and maximum recycle are encouraged in order to limit the amount of discharge. Treatment requirements are also placed on the discharger.

The decision as how to discharge this volume of water will be determined by the permitting authority, but it is recommended that the discharge be on a periodic basis.

(11) Several commenters stated that the technology identified for BPT was presently in place at their operation; however, they could not meet the specified limitations. Several commenters stated that the limitations could not be achieved and that limitations should not have been based on plants with 30 day retention time. Commenters stated that the oxidation of zinc and zinc bearing minerals in mines cause varying loadings to treatment facilities making optimization of treatment for zinc difficult in mine drainage treated separately.

A complete review of the original data base has been made and additional data was collected. Limitations for several pollutants have been adjusted upward as a result of this review. The remaining operations that are not meeting the specified limitations with existing BPT technology may need to optimize the treatment system and operate it for optimum pollutant removal. Also several facilities with retention time of less than 3 days are now achieving the revised limitations. The Agency does not specify retention time, since the design and operation of a treatment system such as the impoundment pond can be best accomplished for each situation. The data shows that the revised limits are achievable using the recommended BPT and by optimizing the operation and controlling the facilities.

(12) Several commenters stated that the effluent limits for cyanide (CN) were below the detectable limits. One commenter stated that the limit for chemical oxygen demand (COD) for the mining of titanium placer deposits was below detectable limits.

The effluent limitations restricting the discharge of cyanide from mills in the base and precious metals subcategory and the ferroalloy subcategory have been adjusted upward to reflect data developed by the Agency and data supplied with industry comments. Several questions were raised concerning the precision and accuracy of the method for measuring total cyanide and the sampling and preservation of samples for measuring total cyanide. It has been demonstrated that the use of cyanide as a flotation reagent can be controlled in the mill process thereby reducing the concentration of cyanide in the raw waste water discharged by the mill. Also, in a properly designed and maintained tailings pond, natural aeration occurs which reduces the concentration of cyanide discharged in the effluent. Additionally, some mills are practicing recycle of portions of waste water streams to reduce the use of cyanide in the mill process. The Agency, therefore, believes that with the control of the use of cyanide and the aeration obtained in a properly designed and maintained tailings pond, the effluent limitations promulgated for the control of cyanide can be met. The limitation on COD for titanium placer deposits has been deleted as EPA has determined that the control of the other pollutants offer sufficient control of COD resulting from point source discharges in this instance.

(13) Two comments expressed a concern that cost for diversion ditches were not included in the cost analysis by by EPA and stated that diversion ditches were necessary for 50 to 90 percent of the cases in their operations as a result of pollution control and not as part of the mining or mill process control as stated by the Agency.

The Agency does not specify the use of diversion ditches but recommends their use to prevent contamination of relatively clean runoff water with process water or mine drainage. The operator has the option to treat this runoff or divert it. In most cases diversion is the most economical method. Where diversion ditches were identified as necessary because of the topography at the facility, the cost for these diversion ditches was included.

(14) One commenter recommended that the inclusion of the statement "and other aluminum ores," in the description of the bauxite subcategory should be deleted.

The regulations were based on data from the bauxite mining subcategory. To avoid misapplication of the regulations, the bauxite subcategory has been renamed the aluminum ore subcategory. An explanation that the regulations should be applied only to bauxite ores is included in this regulation. Operations mining other aluminum ores may be examined for inclusion in the regulations if these other ore bodies are developed.

(15) One commenter recommended limitations for asbestiform fibers for the iron ore industry. One commenter stated that limitations for sulfates, fluorides, manganese and total dissolved solids should be included in the regulations.

The effluent limitations in this regulation are based on specific technologies for the removal of pollutants which were selected for each subcategory by the selection criteria as listed in the development document. (See section VI). The data verified removals of a selected pollutant and effluent limitations were established based on this data and not on water quality standards.

The Agency is presently reviewing BAT particularly with regard to controlling certain priority pollutants mentioned in a Settlement Agreement approved by the United States District Court for the District of Columbia in *Natural Resources Defense Council, et. al.* v. *Train*, No. 2153-73. In the review that Agency will address the inclusion of additional pollutants for control under BAT.

(16) One commenter stated that the no discharge requirement for leaching operations in the base and precious metals subcategory is unnecessarily stringent and limits metallurgical technology.

Currently the majority of all dump, heap, in situ, or vat leach facilities attain no discharge since it is desirable to collect all leach waste streams for extraction of metal values. However, this limitation does not prohibit a facility from discharging blowdown to an available treatment system which may be present at facilities combining waste water from smelters with waste water from ore mines and mills.

(17) Several commenters recommended that the description of iron ore mills be clarified. One commenter was concerned that the no discharge standard for operations employing magnetic methods of beneficiating would be applied to operations other than those operations for which this subcategory was intended.

The recommendation was agreed to and the necessary revision to the regulation has been made.

(18) Two commenters questioned the treatment technology for removal of ammonia for the ferroalloy leach subcategory, stating that the data does not support the effluent limitations.

The effluent limitations for the ferroalloy leaching subcategory has been deleted from the regulation. This action was taken because only one plant existed within this subcategory. Establishing national regulations for a single plant is not warranted. An appropriate permit has been issued to this plant.

(19) One commenter stated that the impoundment facility necessary to comply with the regulation would pose a serious safety hazard to the underground mine which of necessity would be located beneath the impoundment facility and therefore pose a danger to the miners.

The Agency is not aware of any specific information which would cause the Agency to believe that the regulation promulgated today poses a safety hazard. Of course, under no circumstance will an owner or operator be required to violate safety standards in order to meet these regulations. Should evidence be submitted to the Agency that impoundment facilities needed to meet these regulations violate safety standards, EPA will consider the granting of a variance on an expedited basis.

[FR Doc. 78-18811 Filed 7-10-78; 8:45 am]

[4510-23]

Title 41—Public Contracts and Property Management

CHAPTER 29—DEPARTMENT OF LABOR

PART 29-50—COOPERATION WITH STATE AND LOCAL GOVERNMENTS TO COORDINATE AND IMPROVE INFORMATION SYSTEMS

Procurement Regulations

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule establishes a new part to the Department of Labor Procurement Regulations to provide regulations and procedures on the use of State owned or controlled centralized data processing facilities by State and local governments, when such facilities are financed in whole or in part with Federal funds. The Department of Labor new procedures are intended to implement Office of Management and Budget (OMB) Circular No. A-90, and its transmittal memorandum No. 1.

EFFECTIVE DATE: This rule shall be effective on August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Theodore Goldberg, Assistant Director, Division of Grants and Procurement Policy, OGPAMP, OASAM, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9175.

SUPPLEMENTARY INFORMATION: On May 16, 1978, the proposal to amend 41 CFR Chapter 29, Department of Labor Procurement Regulations (DOLPR) was published in the

FEDERAL REGISTER (43 FR 21014). Interested persons were provided a period of 30 days to submit comments, suggestions or objections. The only written comments received were nonsubstantive changes which are editorial in nature. These editorial changes have been made and the proposed amendment is adopted as set forth below.

Accordingly, 41 CFR Part 29-50 is added as set forth below:

Sec.
29-50.000 Scope of part.
29-50.100 General.
20-50.101 Definition.
29-50.200 Policy.

AUTHORITY: 63 Stat. 389, 80 Stat. 379; 5 U.S.C. 301, 40 U.S.C. 486(c); Reorganization Plan No. 6 of 1950, 14 FPR 3174, 64 Stat. 1263, 5 U.S.C. Appendix; Office of Management and Budget Circular No. A-90 and transmittal memorandum No. 1.

§ 29-50.000 Scope of part.

This part describes policies and procedures for carrying out the requirements of the Office of Management and Budget (OMB) Circular No. A-90, of September 7, 1976, regarding the use of State centralized data processing facilities by State and local agencies which receive Federal assistance from the Department of Labor (DOL) (hereinafter referred to as applicable State agency). The provisions of this part shall be employed by all DOL agencies with respect to programs involving Federal assistance.

§ 29-50.100 General.

In recent years, there has been an increasing trend toward establishing centralized data processing facilities by State governments. These facilities are necessary to provide for more coordinated and effective intergovernmental flow of information concerning separate but related government programs devoted to the public needs, and to eliminate duplication. The Department of Labor, through its various Agencies, is committed to implementing comprehensive communications-based systems in support of various assistance programs (e.g., State employment security agencies support by the DOL Employment and Training Administration). The Department of Labor is also committed to cooperating with State and local governments in their efforts to achieve more coordinated and effective intergovernmental (Federal, State and local) flow of information and to eliminate unnecessary duplication. Because of a new emphasis on automation and increasing demands for greater cooperation between Federal, State and local elements of governments in the development and use of State centralized data-processing facilities, the following policies and guidelines are to be utilized in handling requests for approval of the use of State centralized facilities to process all or part of the applicable State agency's federally financed workloads.

§ 29-50.101 Definition.

The term "information system" refers to a body of organized procedures for identifying, collecting, processing, retrieving, and disseminating information. It refers both to a continuing system and to a system established for one-time reports.

§ 29-50.200 Policy.

(a) The Department of Labor will direct all applicable State agencies to cooperate and participate with State and local officials in determining the optimum means for meeting interrelated Federal, State and local information requirements, and to assure that an applicable State agency's individual requirements are not imposed in a manner which unduly impedes State and local governments' ability to meet other information requirements. When Federal information requirements are to be imposed on State or local governments, the views of the chief executives of the units of government affected, or their authorized representatives, shall be sought, considered, and when possible, implemented; written comments from these officials shall be included in the DOL official record of the action imposing these requirements. The period of actual receipt of such comments shall be no less than 21 calendar days; this period may be extended upon a showing of good cause.

(b) The Department of Labor will approve utilization of available Federal resources to States to pay the applicable State agency's fair share of the cost of the proposed data-processing facility. The costs for providing such services shall be reasonable and in accordance with the principles contained in Federal Management Circular (FMC) 74-4 and the Department of Labor's implementing procedures entitled "ADP Cost Determination Guide: An Application of Cost Principles Contained in FMC 74-4 to ADP facilities." In determining reasonableness, consideration will be given to the several options under which the services could have been provided. The proposed system or use of a centralized facility must lead to improvements or benefits for both the applicable State agency and other elements of the State government. The quality of the service must be assured and acceptable to the applicable State agency and the Department of Labor.

(c) The Department of Labor, through applicable State agencies, will pay for centralized ADP services only on the basis of a federally-approved cost allocation and direct charge plan, and only after the completion and approval of a comparative cost analysis. Such analysis must consider book value and economic life span of applicable State agencies' owned equipment. An annual agreement between the applicable State agency and the centralized facility must establish ceiling costs and be approved by the Department of Labor; costs in excess of the agreement may not be transferred to other Federal grants or contracts. Annual efficiency and economy reviews shall be conducted to determine the method with the best cost effectiveness to meet approved applicable State agencies' objectives. Based on these reviews, the Department of Labor, through its applicable State agencies, reserves the right to terminate any centralization agreement upon a 90-day written notice.

(d) The Department of Labor will direct applicable State agencies to specifically state in their request for proposals that the State central data-processing facility has the opportunity to submit a proposal for a major procurement for providing service through its central data-processing facility.

(e) The Department of Labor encourages computer sharing by permitting other State facilities access to excess computer capacity from the applicable State agency facility on a reimbursable basis, provided that Department of Labor programs are not adversely affected. When the applicable State agency's equipment is used to service two or more cost objectives, the costs for providing such services shall be reasonable and in accordance with the cost principles contained in FMC 74-4 and the Department of Labor's implementing procedures as cited in paragraph (b) of this section.

(f) In all cases where an applicable State is served by a State centralized data-processing facility, the DOL-approved agreement between the applicable State agency and the central facility will provide for the right of Federal review and/or audit of facilities, including periodic cost determination reviews by the DOL personnel.

(g) The Department of Labor will, upon request, provide assistance to applicable State agencies in regard to developing ADP cost algorithms. The Department of Labor will review each applicable State agency for assistance in the context of other similar types of proposals being considered or previously approved, in order to assist the applicant in taking advantage of other experiences, promote appropriate compatability among systems and avoid the financing of unnecessary duplicate efforts.

(h) In instances requiring the "lead agency" role (where development of proposals involves several grant-in-aid programs or possibly several Federal agencies), such a role will be automatically assumed by the Federal agency

having potentially the predominant financial interest. The "lead agency" will be responsible for convening all other agencies involved for the purpose of (1) conducting a joint review of the merits of the proposal, (2) exchanging views on possible agency actions, and (3) framing a coordinated approach to the proposal.

(i) The Department of Labor will participate, through applicable State agencies, in all joint meetings during the course of the developmental projects, and will be represented on all steering committees, policy committees, advisory committees, data-processing authority, etc., that affect the operation of the central facility.

Signed at Washington, D.C., this 3d day of July 1978.

ALFRED M. ZUCK,
Assistant Secretary for Administration and Management.

[FR Doc. 78-18935 Filed 7-10-78; 8:45 am]

[4110-84]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 36—INDIAN HEALTH

Subpart E—Preference in Employment

Establishment of New Subpart

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This rule establishes a definition of the term "Indian" for purposes of Indian preference in employment in the Indian Health Service. This action is taken in response to an order from the United States District Court for the District of Columbia which directed the Department to adopt the same definition as that used by the Department of the Interior.

EFFECTIVE DATE: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard C. Oliver, Personnel Liaison Office, Room 6A-33, 301-443-4680.

SUPPLEMENTARY INFORMATION: On April 22, 1977, the U.S. District Court for the District of Columbia in *Tyndall* v. *U.S.* ordered the Department of Health, Education, and Welfare to adopt the same definition of "Indian" for preference in employment of Indians in the Indian Health Service as that used by the Department of the Interior. The Department was further ordered to publish regulations governing the definition of "Indian" for Indian preference purposes in the FEDERAL REGISTER within 30 days of publication of the same by the Interior. The Bureau of Indian Affairs, Department of the Interior, published a proposed rule (42 FR 27609, May 31, 1977) which would add a new Part 259 to Subchapter W, Miscellaneous Activities, of Chapter I, Title 25, Code of Federal Regulations. The proposed new part would establish a definition of the term "Indian" for eligibility for a preference in employment in the Bureau of Indian Affairs. A 45-day period was allowed for comments.

On January 17, 1978, the Department of the Interior published a final rule establishing the definition of Indian for purpose of Indian preference in employment in the Bureau of Indian Affairs (42 FR 2393). This action was taken after the required period for public comment had passed and with full consideration of all public comments received as a result of the publication of the proposed rule.

In compliance with the court order, the Department of Health, Education, and Welfare is adopting and publishing the aforementioned Department of the Interior's definition of Indian.

Persons who are employed by the Indian Health Service on the date these regulations become effective and who received preference according to the rules and procedures in effect at the time preference was granted will continue to be preference eligibles so long as they are continuously employed in positions subject to preference.

Part 36 of Title 42 is amended by adding the following new Subpart E.

NOTE.—the Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

Dated: March 27, 1978.

JULIUS B. RICHMOND, M.D.,
Assistant Secretary for Health.

Approved: June 21, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart E—Preference in Employment

Sec.
36.41 Definitions.
36.42 Appointment actons.
36.43 Application procedure for preference eligibility.

AUTHORITY: 25 U.S.C. 44, 45, 46 and 472; Pub. L. 83-568, 42 U.S.C. 2003.

§ 36.41 Definitions.

For purposes of making appointments to vacancies in all positions in the Indian Health Service a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; or

(e) Until January 17, 1981, a descendant of at least one-quarter degree Indian ancestry of a currently federally recognized tribe whose rolls have been closed by an act of Congress.

§ 36.42 Appointment actions.

(a) Preference will be afforded a person meeting any one of the definitions of § 36.41 whether the placement in the position involves initial appointment, reappointment, reinstatement, transfer, reassignment, promotion, or any other personnel action intended to fill a vacancy.

(b) Preference eligibles may be given a schedule A excepted appointment under 5 CFR 213.3116(b)(8). If the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

§ 36.43 Application procedure for preference eligibility.

To be considered a preference eligible, the person must submit with the employment application a Bureau of Indian Affairs certification that the person is an Indian as defined by § 36.41 except that an employee of the Indian Health Service who has a certificate of preference eligibility on file in the Official Personnel Folder is not required to resubmit such proof but may instead include a statement on the application that proof of eligibility is on file in the Official Personnel Folder.

[FR Doc. 78-18610 Filed 7-10-78; 8:45 am]

[4110-83]

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Grants for Traineeships for the Advanced Training of Allied Health Personnel

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for grants to public or private nonprofit institutions to meet the costs of traineeships for

the advanced training of allied health personnel to (a) teach in allied health training programs, or (b) serve in administrative or supervisory capacities.

DATES: These regulations are effective immediately. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before September 11, 1978.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Fourth floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Merrill DeLong, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Room 5-27 at the above address, telephone 301-436-6824.

SUPPLEMENTARY INFORMATION: On October 12, 1976, the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484, added a new section 797 to the Public Health Service Act (42 U.S.C. 295h-6), authorizing the Secretary to make grants to public and nonprofit private entities to provide advanced training of allied health personnel to teach in training programs for allied health personnel or to serve in administrative or supervisory positions. The statute requires that applications for these grants provide information and be made in accordance with regulations prescribed by the Secretary.

The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, is establishing a new Subpart F of 42 CFR Part 58 entitled "Grants for Traineeships for the Advanced Training of Allied Health Personnel" in order to implement this new statutory authority.

The following is a brief summary of the major features of the regulations.

The regulations provide for grants to public or nonprofit institutions for tuition and stipends to support students in specified allied health professions enrolled in two types of advanced training programs:

1. Allied Health Advanced Traineeship programs which provide full-time academic training of at least one academic year in length to a master's or doctoral degree which qualifies the trainee to function as a teacher, administrator or supervisor in allied health fields; and

2. Allied Health Training Institutes which provide short-term intensive training of at least 2½ days but less than an academic year in length and are designed to improve the capabilities of allied health professionals to serve in teaching, administrative or supervisory positions.

Timely implementation is essential if eligible applicants are to have adequate leadtime to comply with the requirements of the statute and this subpart so that grants can be made prior to June 30, 1978. Therefore, the Secretary has determined pursuant to 5 U.S.C. 533 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than September 11, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective upon July 11, 1978.

Accordingly, Subpart F is added to Part 58 of Title 42 of the Code of Federal Regulations and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 9,1978.

JOYCE C. LASHOF,
Acting Assistant Secretary for Health.

Approved: June 22, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart F—Grants for Traineeships for the Advanced Training of Allied Health Personnel

Sec.

AUTHORITY: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); Section 797 of the Public Health Service Act, 90 Stat. 2308 (42 U.S.C. 295h-6).

§ 58.501 To what projects are these regulations applicable?

The regulations of this subpart are applicable to the award of grants under section 797 of the Act (42 U.S.C. 295h-6) to colleges, universities, and other public or private nonprofit entities to meet the costs of traineeships for the advanced training of allied health personnel to:

(a) teach in allied health training programs, or

(b) serve in administrative or supervisory capacities.

§ 58.502 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act.

"Allied Health Advanced Traineeship program" means a program of advanced training of at least one academic year in length providing a master's or other higher degree which qualifies the trainee to serve as a teacher, administrator, or supervisor in allied health fields.

"Allied health personnel" means individuals with at least one academic year of post-secondary training, including clinical training, in a field which qualifies them to:

(a) support, complement, or supplement physicians, dentists, and other health professionals in the delivery of health care to patients, or

(b) assist environmental engineers in environmental health control and preventive medicine activities.

"Allied Health Training Institute program" means a program of advanced training, to improve the capability of allied health personnel to serve in teaching, administrative, or supervisory capacities, which is at least 2½ days but less than one academic year in length.

"Budget period" means the interval of time into which the project period is divided for budgetary purposes as specified in the grant award document.

"College or university" means a public or private nonprofit educational

institution which is accredited by a recognized body or bodies approved for this purpose by the Commissioner of Education.

"Nonprofit private entity" means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Project period" means the total time for which a project has been approved, including any extensions thereof.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving a traineeship from a grant under this subpart.

§ 58.503 Who is eligible to apply for a grant?

(a) *Allied Health Advanced Traineeship:* Any accredited college or university is eligible to apply if it is located in a State and provides or is able to provide a graduate level Allied Health Advanced Training program.

(b) *Allied Health Training Institute:* Any public or nonprofit private entity is eligible to apply for a grant if it is located in a State and provides or is able to provide and Allied Health Training Institute program.

§ 58.504 How is application made for an Advanced Traineeship or Training Institute grant?

(a) Any applicant desiring a grant under this subpart shall submit an application in the form and at the time which the Secretary may prescribe.[1]

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award and the applicable regulations of this subpart.

(c) In addition to other pertinent information which the Secretary may require, an application for a grant under this subpart must contain:

(1) A full description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart;

(2) A budget and a justification for the funds requested; and

(3) Identification of the program director who is or will be responsible, subject to the approval of the Secretary, for the conduct of the training program.

§ 58.505 What are the criteria for deciding which applications are to be funded?

(a) All applications filed in accordance with § 58.504 will be evaluated by the Secretary.

(b) The Secretary's evaluation will take into account, among other pertinent factors:

(1) The potential effectiveness of the proposed project in carrying out the purposes of section 797 of the Act;

(2) The quality of the training program provided or to be provided by the applicant for which support is requested;

(3) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner;

(4) The relative need for the program proposed; and

(5) The adequacy of the staff and faculty to carry out the program.

§ 58.506 How will grant awards be made?

(a) Within the limit of funds available, the Secretary will award grants to those applicants whose approved projects will best promote the purposes of section 797 of the Act, as determined in accordance with § 58.505.

(b) All grant awards will be in writing and will set forth the amount of funds granted and the period for which these funds will be available for obligation by the grantee. The initial period of support for an Allied Health Advanced Traineeship grant may not exceed three years. The initial period of support for an Allied Health Training Institute grant may not exceed one year.

(c) The amount of the award will be based on the Secretary's estimate of the sum necessary during the budget period to cover the costs of tuition, fees, stipends, and allowances (including travel) for individuals receiving traineeships.

(d) The Secretary will from time to time make payments of all or a portion of any grant award either by way of reimbursement for expenses incurred in the budget period or in advance for expenses to be incurred in accordance with its grant application.

§ 58.507 Who is eligible for financial assistance as a trainee in programs under this subpart?

(a) To be eligible for a traineeship under a grant awarded under this subpart, an individual must:

(1) Be a national of the United States or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, Guam, or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands;

(2) Be accepted for enrollment, or be enrolled, as a full-time student in a training program for which traineeships are available under this subpart;

(3) Plan to use the training received under the traineeship in an allied health field; and

(b) For the Allied Health Advanced Traineeship program:

(1) Be qualified to practice as one of the following:

Clinical Psychologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Dietitian[2]
Medical Record Administrator
Medical Technologist
Nuclear Medicine Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Radiation Therapy Technologist
Sanitarian[3]
Speech Pathologist/Audiologist
Vision Care technician[4]

(2) Have a baccalaureate degree;

(3) Have completed and signed by both the program director and the trainee, by the beginning of the training period, a Statement of Appointment in a form approved by the Secretary, one copy of which is retained by the grantee and original forwarded to the Secretary. The individual shall also sign a statement of intent, to use the training in an allied health field, which shall be attached to the Statement of Appointment;

(4) Be appointed for a full academic year (not to exceed twelve months) except that a shorter appointment may be made where necessary to enable the trainee to complete the training program.

(c) For the Allied Health Training Institute program:

(1) Be qualified to practice as one of the following:

Clinical Psychologist
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Dietitian[5]
Medical Assistant
Medical Record Administrator
Medical Technologist[6]

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[1] Applications and instructions are available from the Grants Management Office, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, room 4-22, 3700 East-West Highway, Hyattsville, Maryland 20782

[2] Limited to graduates of a coordinated undergraduate program and those persons having completed a clinical dietetic internship or other clinical practicum training acceptable to the Secretary.

[3] Limited to graduates of baccalaureate sanitarian education programs or those who are State registered sanitarians or possess the professional qualifications necessary for registration under any of the State registration acts.

[4] Includes persons prepared as an ophthalmic medical assistant, optician optometric technician, low vision technician, orthoptist, contact lens technician.

[5] Same as [2].

[6] Limited to persons qualified as medical technologist generalists and does not in-

Footnotes continued on next page

Occupational Therapist
Nuclear Medicine Technologist
Orthotic/Prosthetic Technician
Physical Therapist
Primary Care Physician Assistant
Radiation Therapy Technologist
Radiologic Technician/Technologist
Respiratory Therapy Technician/Therapist
Sanitarian [7]
Speech Pathologist/Audiologist
Vision Care Technician [8]

(2) Be appointed effective the first day of required attendance and terminate on the last day of each offering or session of the institute.

(d) The following individuals are ineligible for traineeship support:

(1) Full-time Federal employees unless they are on leave without pay status;

(2) The program director, financial officer or the official authorized to represent the grantee institution with respect to an application for a grant under this subpart; or

(3) Individuals receiving lecture fees, salary, travel expenses, or any other form of payment as a member of the grantee training program staff or faculty.

§ 58.508 What stipends and allowances will be available to trainees?

(a) Within the limits for stipends and allowances prescribed by the Secretary, the grantee may pay each trainee the stipend and allowance which the grantee determines is required to enable the trainee to pursue the training program.

(b) A grantee may not pay stipends from grant funds to a trainee who currently receives any Federal educational award, other than educational assistance under the Veterans Readjustment Benefits Act.

(c) For Allied Health Advanced Traineeship grants:

(1) The grantee may pay a trainee an allowance for travel from his or her residence to the training site from grant funds only in cases of extreme need and only upon prior written approval from the Secretary.

(2) The grantee may pay a trainee an allowance from grant funds for travel for field training which is at a site beyond reasonable commuting distance and which requires the trainee to establish a temporary new residence. No allowance shall be paid for daily commuting from the new place of residence to the field training headquarters.

(3) The grantee may pay the trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements, upon prior approval of the Secretary.

(d) For Allied Health Training Institute programs:

(1) The grantee may pay stipends from grant funds only to trainees who must temporarily change their place of residence to attend the training program.

(2) The grantee may pay stipends from grant funds only for days of instruction during which the trainee receives a minimum of 6 hours of formal instruction, except that during the first and last days of the training session the trainee must receive a minimum of 3 hours during the day.

§ 58.509 Termination of traineeship.

(a) The grantee shall terminate a traineeship upon request of the trainee.

(b) The grantee shall terminate any traineeship if the trainee is no longer enrolled full time in the training program for which the trainee was receiving a traineeship under this subpart or fails to maintain the level of academic standing required by the institution's standards and practices for full-time enrollment.

§ 58.510 Purposes for which grant funds may be spent.

(a) Any funds granted under this subpart must be spent solely for providing traineeships to eligible individuals in accordance with section 797 of the Act, the regulations of this subpart, the approved applications, and the terms and conditions of the award.

(b) Expenditures are limited to:

(1) payment of stipends in accordance with § 58.508,

(2) tuition and fees in accordance with the established rates of the institution except as limited by the Secretary, and

(3) transportation allowances in accordance with § 58.508.

(c) In the case of Advanced Traineeship grants, any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account.

(d) At the end of the period of grant support, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 58.511 What prohibitions against discrimination are applicable to training programs funded under this subpart?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations, the following laws and regulations are applicable to the administration of these grant awards:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color or national origin);

(2) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap);

(4) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR 83 (prohibiting discrimination on the basis of sex in admission of individuals to training programs).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs or in the award of traineeships.

§ 58.512 How the grantee must account for the grants received by it.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Grant closeout.*

(1) *Date of final accounting.* A grantee must submit, with respect to each grant under this subpart, a full account, in accordance with this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of

(i) any amount not accounted for under paragraph (a) of this section, and

(ii) any other amounts due in accordance with Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. This total

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Footnotes continued from last page
clude those persons qualified *only* in a clinical laboratory specialty.

[7] Limited to graduates of baccalaureate level educational programs or to those who are State registered sanitarians or possess the professional qualifications necessary for registration under any of the State registration acts.

[8] Includes persons prepared as an ophthalmic assistant, ophthalmic dispenser, ophthalmic optician, optometric technician, low vision technician, orthoptist, and contact lens technician.

sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assignees by setoff or other lawful action.

§ 58.513 How 45 CFR Part 74 applies to these regulations.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:
A. General.
B. Cash Depositories.
C. Bonding and Insurance.
D. Retention and Custodial Requirements for Records.
F. Grant-related Income.
G. Matching and Cost Sharing.
K. Grant Payment Requirements.
L. Budget Revision Procedures.
M. Grant Closeout, Suspension, and Termination.
O. Property.
Q. Cost Principles.

§ 58.514 Records, audit, and inspection.

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74 the grantee must establish and maintain records as the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to the grantee from other sources, and other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of the audit must be filed with the Secretary at the time and in the manner as the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all such books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon reasonable request.

§ 58.515 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-18446 Filed 7-10-78; 8:45 am]

[4110-07]

Title 45—Public Welfare

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 304—FEDERAL FINANCIAL PARTICIPATION

Availability and Rate of Federal Financial Participation

AGENCY: Office of Child Support Enforcement, HEW.

ACTION: Final rule.

SUMMARY: This regulation provides for a continuation of a Federal financial participation (FFP) through September 30, 1978, for the costs of child support enforcement services provided by State IV-D Agencies to individuals who are not eligible for cash assistance under the aid to families with dependent children program (AFDC). This amendment is made to implement section 4 of Pub. L. 95-59. The amendment will enable States to continue to receive 75 percent of the costs of providing child support enforcement services to non-AFDC recipients.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Suzanne M. Duval, 202-472-4510.

SUPPLEMENTARY INFORMATION: Title IV-D of the Social Security Act requires States to make child support enforcement services available to welfare recipients and those not on welfare who request such services. Prior to enactment of Pub. L. 95-59, section 455(a) of the act provided FFP through June 30, 1977 for child support enforcement services for nonwelfare recipients. Pub. L. 95-59, approved June 30, 1977, amends section 455 to continue FFP through September 30, 1978 for services provided to nonwelfare recipients. Congress intends that the child support enforcement activities for nonwelfare recipients will become self-supporting through fees collected and costs recovered out of child support collected. Congress has extended this FFP provision for 15 months because child support programs for nonwelfare recipients in many States have not yet become fully operational.

In accordance with the Administrative Procedures Act (5 U.S.C. 553(b)(B)), prior notice and opportunity for public comment are not necessary because the change is a technical amendment which merely conforms the regulation to the amended statute. Further, this regulation imposes no new requirement upon the States, but rather provides continuing FFP to the States for activities that have been and continue to be a part of the child support enforcement program.

Section 304.20 is amended by revising (a)(4) as follows:

§ 304.20 Availability and rate of Federal financial participation.

(a) * * *

(4) During any period prior to October 1, 1978, paternity and child support services under the State plan for individuals eligible pursuant to § 302.33 of this chapter.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal domestic assistance program No. 13679, child support enforcement program.)

The Office of Child Support Enforcement has determined that this document does not require preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 22, 1978.

DON WORTMAN,
Acting Director, Office of Child Support Enforcement.

Approved: June 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-19037 Filed 7-10-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 285—ATLANTIC TUNA FISHERIES

Purse Seine Season Reclosure

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rulemaking.

SUMMARY: The National Marine Fisheries Service amends the regulations regarding fishing for Atlantic bluefin tuna. These amended regulations reclose the purse seine fishing season for school-size Atlantic bluefin tuna at 2000 hours e.d.t., June 30, 1978.

EFFECTIVE DATE: 2000 hours e.d.t., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: On June 21, 1978, a notice of final rulemaking concerning the Atlantic bluefin tuna fishery was published in the FEDERAL REGISTER at 43 FR 26581. Section 285.13 established a total annual quota for school-size Atlantic bluefin tuna at 1,000 short tons (910 metric tons). Of the total annual quota of 1,000 short tons, 800 short tons were made available for capture during the open season, and 200 short tons were reserved to be taken at any time during the year incidental to conduct of a scientific Atlantic bluefin tuna tagging project.

On June 26, 1978, a notice was published in the FEDERAL REGISTER at 43 FR 27547, announcing that the season would be closed at 0001 hours e.d.t., June 24, 1978, for school-size Atlantic bluefin tuna by purse seine vessels. On June 30, 1978, a notice was published in the FEDERAL REGISTER at 43 FR 28502, announcing the reopening of this fishery since the quota was not reached.

The 1978 open season quota of 800 short tons of bluefin tuna school-size fish has been taken. Consequently, in accordance with § 285.13, the Assistant Administrator for Fisheries has determined that the purse seine fishing season for school-size Atlantic bluefin tuna shall be reclosed effective 2000 hours, June 30, 1978. In order to assure that the quota is not exceeded, this regulation is effective immediately.

Issued at Washington, D.C., this 6th day of July 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-19036 Filed 7-10-78; 8:45 am]

[3510-22]

PART 280—PACIFIC TUNA FISHERIES

Miscellaneous Amendments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document amends the regulations for small vessel allocations, changes the radio reporting frequencies, provides for the establishment of a new experimental fishing area within the yellowfin tuna regulatory area, and new inspection procedures for 1978. These regulations are published by the National Oceanic and Atmospheric Administration to implement conservation measures of the Inter-American Tropical Tuna Commission.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

J. Gary Smith, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731, 213-548-2518.

SUPPLEMENTARY INFORMATION: The proposed rulemaking of April 20, 1978 (43 FR 16783), noted that the Commission's resolution for 1978 allows vessels of less than 400 short tons carrying capacity or those which entered the yellowfin fishery prior to January 1, 1960, to fish on a 6,000 short ton special allocation provided by the Commission for 1978. In considering the Commission's resolution, the National Marine Fisheries Service, NMFS, proposed a separate catch rate for those vessels included under the special allocation for the first time.

Only one spokesman opposed the proposal on the grounds that additional vessels should not be included under the special allotment without increasing the amount of the allotment to accommodate the increased fishing pressure.

While the Commission's resolution did provide for the inclusion of other vessels under the special allocation, no increases in the allocation were approved. Also, since the seiner allotment has not been filled during the past three seasons, there is no indication that an adjustment will be necessary at this time. Therefore, the small boat allotments for 1978 will be:

1. Purse seiners of less than 400 short tons carrying capacity or which entered the fishery prior to January 1, 1960: 3,600 short tons.

2. Bait and jig boats: 2,800 short tons.

The incidental catch rates for the two categories during the period in which each is accumulating its allotment will be:

1. Purse seiners greater than 400 short tons carrying capacity and which entered the fishery prior to January 1, 1960: 35 percent by round weight.

2. Purse seiners of 301-400 short tons carrying capacity: 50 percent by round weight.

3. Purse seiners of 300 short tons carrying capacity or less: 70 percent by round weight.

4. Bait and jig boats: 60 percent of each vessel's established short ton carrying capacity.

There was no objection to the establishment of a new experimental area south and east of the Galapagos Islands under Section 280.1(g). This area is adopted as proposed.

NMFS observers are placed aboard fishing vessels as required under regulations of the Marine Mammal Protection Act in order to monitor the effectiveness of the program to reduce porpoise mortality associated with fishing operations. Since observers are present during the entire vessel trip there has been considerable interest in utilizing them to verify catches at sea in order to permit a vessel to change from an unrestricted fishing area to a restricted fishing area and vice versa without first returning to port for a well inspection. The National Marine Fisheries Service believes verification by observers to be a feasible alternative to port inspections. Therefore, to determine the effectiveness of the practice, NMFS will establish procedures, for 1978 only, by which catch verification can be achieved. To establish such a procedure it is important that three principles be followed:

1. The observer shall verify catches aboard his assigned vessel only.

2. The vessel shall provide the observer all the information necessary to make an accurate determination of the catch aboard the vessel.

3. There shall remain only one partially full well aboard the vessel regardless of the number of catch verifications that have been made.

Section 280.1(k) "Definition of a fishing voyage," and Section 280.10 "Provisions for well inspection during closed season," are amended in order to put the procedure into effect. Guidelines for the vessels and observers to follow will be distributed to all concerned.

In addition, the dates in § 280.6 are amended to reflect the appropriate years ("1977" to be changed to "1978" and "1976" to "1977").

After the proposed regulations had been published and the public hearing held, it was learned that the Federal Communications Commission had reallocated the radio frequencies in the marine mobile band. Thus, the frequencies currently specified in section 280.6 and section 280.8 are no longer valid. Therefore, the radio reporting frequencies have been changed in order to comply with the Federal Communications Commission (FCC) rules and regulations, section 81,361. The new reporting frequencies are 16,593.3, 12,435.4, or 8,291.1 kHz.

These amendments are issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as amended (16 USC 955(c), as modified by Reorganization

Plan No. 4 effective October 3, 1970 (35 FR 15627).

The Assistant Administrator, National Marine Fisheries Service, finds that because (1) fishing resulting in incidental catch of yellowfin tuna has begun, and (2) fishermen are familiar with the contents of these regulations, there is good cause to make these regulations effective immediately.

Signed at Washington, D.C., this 5th day of July 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Accordingly, 50 CFR Part 280 is amended as follows:

1. 50 CFR 280.1 (g) and (k) are revised to read as follows:

§ 280.1 Definitions.

* * * * *

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40° N. latitude intersects the coast; thence due west to the meridian of 125° W. longitude; thence due south to the parallel of 20° N. latitude; thence due east to the meridian of 120° W. longitude; thence due south to the parallel of 5° N. latitude; thence due east to the meridian of 110° W. longitude; thence due south to the parallel of 10° S. latitude; thence due east to the meridian of 90° W. longitude; thence due south to the parallel of 30° S. latitude; thence due east to a point on the mainland where the parallel of 30° S. latitude intersects the coast. For 1978 only, exclude from the regulatory area on an experimental basis the three areas defined as follows:

(1) The area encompassed by a line drawn commencing at 110° W. longitude and 5° N. latitude extending east along 5° N. latitude to 95° W. longitude; thence south along 95° W. longitude to 3° S. latitude; thence east along 3° S. latitude to 90° W. longitude to 10° S. latitude; thence west along 10° S. latitude to 110° W. longitude; thence north along 110° W. longitude to 5° N. latitude;

(2) The area encompassed by a line drawn commencing at 115° W. longitude and 5° N. latitude extending west along 5° N. latitude to 120° W. longitude; thence north along 120° W. longitude to 20° N. latitude; thence east along 20° N. latitude to 115° W. longitude; thence south along 115° W. longitude to 5° N. latitude;

(3) The area encompassed by a line drawn commencing at 90° W. longitude and 12° S. latitude extending east along 12° S. latitude to 85° W. longitude; thence south to 15° S. latitude; thence east to 80° W. longitude; thence south to 30° S. latitude; thence west to 90° W. longitude; thence north to 12° S. latitude.

* * * * *

(k) *Fishing voyage.* The period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service or the date such vessel's catch is officially verified by a National Marine Fisheries Service observer.

§ 280.6 [Amended]

2. 50 CFR 280.6 is amended by striking out "1977" and "1976" and inserting "1978" and "1977" in lieu respectively and in paragraph (b)(3) by striking "frequency 16,565.0, 12,421.0, or 8,281.2 KHz" and inserting "frequency 16,593.3, 12,435.4, or 8,291.1 KHz" in lieu respectively.

3. 50 CFR 280.7 is revised to read as follows:

§ 280.7 Provisions for fishing inside CYRA on closed season trips.

Except as otherwise provided in Section 280.6(c) and this section, after notice has been published in the FEDERAL REGISTER announcing closure of the yellowfin season, it shall be unlawful for any person or fishing vessel to land yellowfin tuna captured from within the regulatory area in any port or place until the season reopens on the following January 1.

(a) Any fishing vessel which departs port on a fishing voyage after closure of the yellowfin season, except as provided in Section 280.6(c), they land yellowfin tuna captured from within the regulatory area in limited quantities as provided in paragraphs (a)(1) to (3) of this section as an incident to fishing for species with which yellowfin may be mingled. The Assistant Administrator for Fisheries may, however, through publication of a notice in the FEDERAL REGISTER adjust the incidental catch limitations to assure that the special allotments designated for vessels less than 400 short tons carrying capacity or which entered the fishery prior to January 1, 1960, are not underutilized and the 15 percent overall incidental catch for the entire tuna fleet is not exceeded. Any quantity of yellowfin tuna landed in excess of the limitations provided in (a)(1) to (a)(3) of this section shall be subject to seizure and forfeiture pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951-961).

(1) Purse seiners of 400 short tons carrying capacity and over and which did not enter the fishery prior to January 1, 1960, may land in any port or place yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 15 percent by round weight of its total catch.

(2) Purse seiners of less than 400 short tons carrying capacity or vessels which entered the fishery prior to January 1, 1960, may land in any U.S. port yellowfin tuna captured from within the regulatory area according to the following provisions:

(i) Any vessel greater than 400 short tons carrying capacity and that entered the fishery prior to January 1, 1960, shall not be permitted to land yellowfin tuna in excess of 35 percent by round weight of its total catch.

(ii) Any vessel of 301-400 short tons carrying capacity shall not be permitted to land yellowfin tuna in excess of 50 percent by round weight of its total catch; except, that any such vessel which is on a fishing voyage longer than 70 days may land 20 percent yellowfin tuna by round weight of its established short ton carrying capacity.

(iii) Any purse seiner of 300 short tons carrying capacity or less shall not be permitted to land yellowfin in excess of 70 percent by round weight of its total catch; except, that any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity.

(iv) Any local wet fish seiner may accumulate a 70-percent allowance by weight for the period from the date of closure of the yellowfin fishing season until the end of that month and for each calendar month thereafter provided such vessels have not landed any yellowfin tuna during the open season and make deliveries only on a daily basis.

(v) When the catch of yellowfin tuna by purse seiners fishing under the Commission's special allocation reaches 3,600 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After the date of closure for the special allotment is announced in the FEDERAL REGISTER by the Assistant Administrator for Fisheries, any vessel departing on a fishing voyage and intending to fish within the regulatory area shall be subject to the 15-percent limitation.

(3) Bait and jig boats may land in any U.S. port yellowfin tuna captured from within the regulatory area, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 60 percent by round weight of its short ton carrying capacity once established in accordance with paragraph (a)(4) of this section. When the catch of yellowfin tuna by bait and jig boats collectively reaches 2,800 short

tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. During the period of the closed season that bait and jig boats are fishing for their allotments, all such boats must notify the Regional Director when they depart port on a fishing voyage. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Assistant Administrator for Fisheries, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(4) The short ton capacity of vessels will be determined from tables prepared by the Commission which relate carrying capacity to registered tonnages and from official unloading records available to the National Marine Fisheries Service.

(i) Managing owners of purse seine vessels of less than 400 short tons carrying capacity or which entered the fishery prior to January 1, 1960, will be notified by registered mail that their vessels are in this category and are subject to the provisions of paragraph (a)(2) of this section.

(ii) Except as provided below for bait and jig boats, managing owners not receiving notification by registered mail can assume that their vessel is of 400 short tons carrying capacity and did not enter the fishery prior to January 1, 1960, and is subject to the provisions of (a)(1) of this section.

(iii) To qualify for the bait and jig boat yellowfin allocation, managing owners of such vessels shall supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information will be used by the Regional Director to establish the short ton carrying capacity of each vessel. Failure to comply shall result in each such vessel being limited to 15 percent yellowfin tuna by round weight of its total catch. This 15 percent limitation shall remain in effect until the aforesaid documentation is furnished by the vessel's managing owner.

(5) The tonnage limitations specified in (a) (2) and (3) of this section may be adjusted upward or downward. Any such adjustment will be based upon the estimated use of the incidental catch allowances, and shall be apportioned as determined by the Assistant Administrator for Fisheries. Announcement of such adjustment shall be made by publication of a notice in the FEDERAL REGISTER by the Assistant Administrator for Fisheries.

(b) Any fishing vessel operating within the regulatory area which began its fishing voyage during the closed season and is restricted to the catch limitations as provided in paragraph (a) of this section shall be subject to such limitation regardless of its arrival date in port. In addition, any vessel so restricted which discharges some but not all of its catch, shall be subject to the same restrictions upon completion of its next fishing voyage.

(c) All fishing vessels that are permanently based in a foreign country, which elect to participate in the allocation provisions for vessels of less than 400 short tons carrying capacity or which entered the fishery prior to January 1, 1960, shall (1) unload in a U.S. port after each voyage begun during the closed season, or (2) transship all fish taken on such voyages to a U.S. port in accordance with paragraph (i) of this section. Any vessel failing to follow the procedures of this paragraph shall be limited to an incidental rate of yellowfin tuna not to exceed 15 percent by round weight of its total catch.

NOTE.—The amount of yellowfin tuna that may be legally landed by a vessel subject to a specified percent incidental catch rate of yellowfin tuna based upon the round weight of the total catch is determined by the following formula:

Quantity of legal yellowfin tuna=(Quantity of mingled species) × (Specified incidental catch rate in percent)/(100 percent) − (Specified incidental catch rate in percent)

For example, if the incidental catch rate of yellowfin tuna is 15 percent, then:

Quantity of legal yellowfin tuna =(Quantity of mingled species) × (15)/85

(d) All reports required in this section shall be telephoned to area code 714, telephone number 233-5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.8 [Amended]

4. 50 CFR 280.8(a)(1) is amended by striking "frequency 16.565.0, 12.421.0, or 8.281.2 KHz" and inserting "frequency 16;593.3, 12,435.4, or 8,291.1 KHz" in lieu respectively.

5. 50 CFR 280.10 is revised to read as follows:

§ 280.10 Provisions for well inspection during closed season.

(a) Any fishing vessel having incidentally caught yellowfin tuna aboard may begin fishing on January 1 for yellowfin tuna without restriction provided such vessels are made available for inspection during the period December 27 through December 31. A request for the designation of an inspection port shall be made to the Regional Director on or before December 23. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing incidentally caught yellowfin tuna and the same will be noted in the vessel's log. Fish in the wells at the time of inspection shall be subject to the incidental catch limitations as set forth in § 280.7(a), regardless of the date of unloading. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service. Inspected vessels shall not be allowed to leave port to resume fishing activity until 0001 hours, January 1.

(b) Any fishing vessel electing to change fishing areas, without having that portion of its catch taken outside the regulatory area restricted to such incidental catch limitations, shall request inspection services from the Regional Director. Vessels within the regulatory area shall report not less than 48 hours prior to electing to leave the area, stating their intention and requesting the designation of an inspection port, and giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed directly without delay to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing fish captured within or outside the regulatory area as appropriate, and the same will be noted in the vessel's log. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service.

(1) The National Marine Fisheries Service will provide two inspections per month in foreign ports from June 1 through December 1 in the Canal Zone and Puntarenas, Costa Rica. These inspections will be provided upon advanced notification on the 1st and 2d and the 15th and 16th day of each month, respectively, at no cost to the requestor. Inspection service may be provided in foreign ports at other times at the expense of the requesting vessel. Such additional inspections will be provided subject to advance notification, availability of personnel, immigration clearances and approval of the Regional Director. Well inspections will be provided at U.S. ports as they are needed subject to proper notification.

(c) The Regional Director, for 1978 only, may upon request authorize a National Marine Fisheries Service ob-

server to verify the catch aboard a vessel wishing to change fishing areas. This option is available subject to the following requirements and conditions:

(1) The observer shall verify catches aboard his assigned vessel only.

(2) The vessel shall provide the observer all the information necessary to make an accurate determination of the catch aboard the vessel.

(3) There shall remain only one partially full well aboard the vessel regardless of the number of catch verifications that have been made.

(4) The reporting requirements for entering and departing the regulatory area and for the unloading of inspected vessels shall be as set forth in §§ 280.10(a) and 280.10(b).

(i) The observer shall note the amount of catch by species and the location of the catch aboard the vessel in the vessel's log. Such verification when performed according to the observer's satisfaction shall serve in lieu of a port inspection.

(ii) If the Regional Director finds that the provisions relating to catch verification are inadequate to insure compliance with the Commission's resolution, he may cancel the procedure and require vessels wishing a well inspection to return to port under the requirement of paragraph (b) of this section.

(d) Any vessel failing to file the reports and to follow the procedures of this paragraph shall be restricted to the incidental catch limitation set forth in § 280.7(a) for its entire fishing voyage.

[FR Doc. 78-19105 Filed 7-10-78; 8:45 am]

[3510-22]

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document is a final regulation implementing the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California. These regulations were originally published on April 14, 1978 as both proposed rulemaking and as an emergency regulation. Numerous public comments were received in response to that publication. Discussion of those comments may be found in the supplementary information.

EFFECTIVE DATE: 0001 hours, P.d.t., July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, NOAA, 1700 Westlake Avenue, North Seattle, Wash. 98109, telephone 206-442-7575.

SUPPLEMENTARY INFORMATION: On April 14, 1978 the Secretary published emergency regulations and proposed final regulations to implement the fishery management plan for commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California (FMP) (43 FR 15629). The emergency regulations were promulgated under section 305(e) of the FCMA upon determination of an emergency involving the resource, and repromulgated on May 24, 1978 (43 FR 22214). The period of public comment on the FMP and proposed implementing regulations closed on June 1, 1978.

The FMP, which applies to salmon fishing in the Pacific Ocean during 1978, was developed and adopted by the Pacific Council and submitted to the Secretary on January 3, 1978. The Secretary reviewed the FMP and the record of the Council's proceedings for consistency with the FCMA and other applicable law, and approved it on March 2, 1978.

The FMP and proposed regulations are intended to provide effective conservation and management of the salmon fisheries in the ocean area subject to Federal jurisdiction. The adopted management measures address the conservation problems inherent in the "mixed-stock" ocean fishery, where fishing rates have differing impacts on the various runs of salmon, some of which are severely depressed. The intent is to allow for a viable ocean fishery, while providing a harvestable surplus of most stocks of salmon for the inside fisheries as well as allowing an adequate number of salmon to reach the spawning grounds. The regulations are also intended to minimize ocean fishing impact on those runs of salmon which are severely depressed and which are protected by restriction or "inside" fishing. A further intent is to direct harvest of salmon toward larger fish, since the maximum sustained yield of salmon, unlike some other species, occurs as the fish approach sexual maturity. The efficient utilization of the salmon resource is of particular significance in the commercial ocean fishery, where the larger fish have a higher value per pound. Finally, the FMP and regulations, recognize the Treaty Indian fishing rights which are the subject of recent Federal court decisions. Specific ocean fishing rights are recognized for some tribes. Increased escapements from the ocean are expected to help alleviate the burden which has been sustained by non-Indian inside fishermen, and allow for Treaty Indian fishing.

The 1978 FMP is the second step in development of a comprehensive plan for the management of salmon stocks. The initial step was the FMP developed and implemented during 1977. The success of this 1978 FMP is dependent upon cooperation by adjacent states, with regard to enforcement and salmon management. A comprehensive plan is currently being developed by the Council, and involves the collection and analysis of a vast amount of new data on many aspects of the salmon fishery, such as: habitat preservation and enforcement; comprehensive management throughout the range of the stocks; catch and escapement data on Oregon and California stocks; recreational fisheries; social, cultural and economic data on the fisheries; environmental and ecological factors; and additional biological data. In addition, the Council has entered into four contracts for studies of economic and social aspects of the commercial and recreational salmon fisheries. The list of studies being compiled for the comprehensive plan demonstrates the gaps in existing information which must be filled before such a plan can be implemented and the salmon managed in a unified manner throughout their range. Much of this information involves both "inside" and ocean fisheries.

The 1978 FMP contains management measures similar to those adopted in 1977. However, the data, organization, and analysis of available management options are much improved over 1977. These regulations continue the 28-inch minimum size limit on chinook salmon off Washington and northern Oregon. However, the dividing line between the 28-inch limit and 26-inch limit is Cape Falcon, Oreg. rather than Tillamook Head as it was in the 1977 regulations. Seasonal restrictions on commercial fishing remain the same as in 1977, with the exception that the two week June closure of commercial fishing will apply north of Cape Falcon rather than Tillamook Head. These regulations require that barbless hooks be used during the early chinook season along the entire coast. Last year this restriction applied only north of Tillamook Head. This measure is intended to reduce hooking mortalities on salmon shorter than the legal length. In contrast to 1977, the 1978 FMP allows barbs on certain types of hooks, based upon studies of gear selectivity. Further, this year's regulations make clear that hooks with flattened barbs are acceptable.

Following publication of proposed regulations, a request was received for a reopening of the record concerning the location of the management boundary at Cape Falcon, Oreg. The issue raised by that location was contentious because the regulations north

of that boundary are much more stringent than the regulations south of it. A similar boundary in 1977 was located at Tillamook Head, Oreg. approximately 11 miles north of Cape Falcon. In response to this request, a special comment proceeding was instituted by FEDERAL REGISTER notice on April 28, 1978 (45 FR 18219). The public was invited to review the administrative record and comment in writing on this issue. A panel of fishery experts was convened to review the administrative record, scientific data and public comments on this issue. The panel submitted a report to the Assistant Administrator for Fisheries on June 6, 1978, and the report was made available to the public upon request. The report supported establishment of the Cape Falcon boundary for the 1978 fishing season.

In contrast to last year, these regulations allow freezer vessels to decapitate salmon in preparation for on board freezing. Also, this year, Treaty Indian ocean fishing rights are recognized for two additional tribes, the Quileute and the Hoh.

Recreational fishing restrictions were altered by addition of size limits and increased season limits along the Oregon coast. Last year such limits applied off Oregon only north of Tillamook Head. The three fish daily catch limit and the requirement of one rod and line per angler remain as in 1977.

Many comments were received by the Council and the Secretary during development of this FMP. The significant comments received, and responses, appear in the Final Environmental Impact Statement (FEIS). The notice of availability of the FEIS was published in the FEDERAL REGISTER on March 13, 1978. In addition, issues raised by commentators during the review of the FMP and proposed regulations included:

1. Boundary issue: Cape Falcon v. Tillamook Head.
2. Limited Entry.
3. Validity of scientific information.
4. Basic issue of management philosophy: Stock enhancement versus restrictions.
5. Whether off-shore trollers are being unfairly dealt with.
6. Whether the Council was allocating salmon resources.

1. Most of the comments received on the Cape Falcon/Tillamook Head issue were from commercial trollers opposing the adoption of the Cape Falcon boundary on the basis that it was an unwarranted restriction of trollers. Other commentators, such as treaty Indians and other inside fishermen, supported the Cape Falcon boundary.

This issue was addressed by a panel of experts which reviewed the record and additional scientific information and other comments received in response to the FEDERAL REGISTER notice of April 28, 1978. Their report observed that scientific data supporting either the Cape Falcon or Tillamook Head line was somewhat limited, but concluded that the objectives of the plan, FCMA, and these regulations are best served by retaining the management boundary at Cape Falcon during 1978. The Assistant Administrator for Fisheries has accepted these findings and determined to retain the Cape Falcon boundary.

2. Limited entry appears in the plan for 1979 as a statement of intent. This is not a specified requirement at present, and does not appear in the regulations. The Council is currently addressing this matter through task force studies, and interested parties are encouraged to make their views known to the Council.

3. Commentators challenged the validity of the scientific information, including its substance, quantity, and analysis. Although additional data are being collected and analyzed, we found that the best available scientific data were used in developing the management plan. In particular commentators noted that the catch information from the 1977 fishing season was not used in developing the plan for 1978. The Council did consider the 1977 data as it was summarized and made available and it was also considered during Secretarial review.

4. The issue of stock enhancement as opposed to restrictions on fishermen was raised several times. Stock enhancement is a continuous process. A large percentage of salmon caught in the off-shore fishery includes fish which were propagated artifically as a result of existing enhancement programs. Additional enhancement is planned. However, protection must be given to the wild stocks which could be severely damaged by unrestricted ocean fisheries.

5. Prior to 1977, off-shore trollers fished as weather permitted, with little restriction off the Washington and northern Oregon coasts. Inshore fishermen, particularly the net fishermen, were severely restricted to provide necessary escapement to certain streams, especially after Federal court decisions construing Treaty Indian fishing rights. The present regulations do not discriminate against any group of fishermen, they are intended merely to control a sequential fishery and ensure adequate escapements so that the fisheries may continue.

6. Some comments stated that the Council had exceeded its authority in making allocations of salmon between troll fishermen and "inside" fishermen. None of the management measures adopted are intended solely for allocation. They are intended to achieve the conservation, economic, and social goals called for by the optimum yield concept. They are also intended, in part, to recognize Treaty Indian fishing rights. National Standard No. 4 does not forbid allocations, or fishing privileges, as long as such measures are fair and equitable to all fishermen, are reasonably calculated to promote conservation, and are carried out in such a manner that no particular individual acquires an excessive share of such privileges. The intent of these measures is to continue the viability of all fisheries for salmon.

In addition, some commentators questioned the differing restrictions on commercial fisheries north and south of Cape Falcon, and between commercial and recreational fisheries. The Council considered certain measures applied north of Cape Falcon, such as the 28-inch limit on chinook, for application along the entire coast, but concluded that there was insufficient information upon which to base such additional restrictions at this time. Further, the stocks north of Cape Falcon support inside fisheries as well as ocean fisheries. We accept this determination, and understand that such measures will be studied more fully and addressed in future plans.

The differing treatment of commercial and recreational fisheries is based upon the determination that each fishery has its own characteristics and should be managed accordingly. The FMP projects a greater impact on the commercial fishery. However, in light of the lack of information on the economic impact of additional restrictions of the recreational fishery, it was determined no additional restrictions would be imposed upon that fishery at this time. We note that paralleled restrictions on commercial and recreational fisheries would be likely to fall much more heavily on the recreational sector. Further, the recreational fishery is subject to restrictions, such as the gear limit of one rod per angler and the three fish daily catch limit, which are not applied to commercial trollers.

The only significant change from the proposed regulations involves the method of measuring salmon. In response to comments received from trollers and a resolution of the Pacific Council, salmon may be measured by fanning or swinging the tail. In addition, a new definition of "recreational fishing gear" was added for clarification. The definition of "troll gear" was also clarified. The regulations were changed to make clear that legally caught salmon of any size may be possessed during a closed season in any management area. The specific times during which barbless hooks are required was also added to make clear that this restriction only applies during the early chinook season.

The Assistant Administrator for Fisheries finds that because (1) the

1978 season is already underway and (2) fishermen are already familiar with these regulations, there is good cause to make these regulations effective immediately.

Signed at Washington, D.C., this 6th day of July 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Part 661 is adopted as final and added to chapter VI of title 50 to read as set forth below:

Sec.
661.1 Purpose.
661.2 Relation to United States-Canada Sockeye and Pink Salmon Convention.
661.3 Relation to State laws.
661.4 Definitions.
661.5 Salmon fishery management areas.
661.6 General restrictions.
661.7 Facilitation of enforcement.
661.8 Penalties.
661.9 Commercial fishing.
661.10 Recreational fishing.
661.11 Treaty Indian fishing.
661.12 Emergency regulations.
661.13 Catch reports.
661.14 Test fisheries.

AUTHORITY: The fishery Conservation and Management Act of 1976, 16 U.S.C. 1855.

§ 661.1 Purpose.

The purpose of this part 661 is to provide for the management of the commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California in the Fishery Conservation Zone (also known as the 3-to-200 mile zone) over which the United States exercises exclusive fisheries management authority (i.e. the Pacific Fishery Management Council Salmon Management Area). This part 661 implements the Pacific Council's Fishery Management Plan for commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California pursuant to authority conferred by the Fishery Conservation and Management Act of 1976.

§ 661.2 Relation to United States-Canada Sockeye and Pink Salmon Convention.

This part 661 does not apply to fishing conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System as amended by the Pink Salmon Protocol, north of 48° north latitude.

§ 661.3 Relation to State laws.

This part 661 recognizes that any State law which pertains to vessels registered under the laws of that State, while in the Pacific Council Salmon Management Area, and which is consistent with the Salmon Management Plan, including any State landing law, shall continue to have force and effect respecting fishing activities addressed herein.

§ 661.4 Definitions.

(a) Act—means the Fishery Conservation and Management Act of 1976, Pub. Law 94-265 (16 U.S.C. 1801-1882).

(b) Authorized Officer—means:

(1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

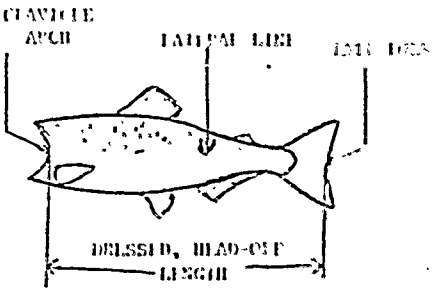
(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this subsection.

(c) Commercial fishing—means fishing for the purpose of sale or barter.

(d) Dressed, Heads-off length of salmon—means the shortest distance between the mid-point of the clavicle arch and the fork of the tail, measured along the lateral line while the fish is lying on its side, without resort to any force or mutilation of the fish other than removal of the head, gills, and entrails.

(e) Dressed, Heads-off Salmon—means salmon that have been beheaded, gilled and gutted, without further separation of vertebrae, and are either being prepared for on-board freezing, or are frozen, and will remain frozen until landed.



(f) Fishing—means:

(1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish; or

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish.

(g) Fishing vessel—means any boat, ship or other floating craft which is used for, equipped to be used for, or of a type which is normally used for fishing.

(h) Freezer Trolling Vessel—means a salmon trolling vessel which has capabilities for (1) on-board freezing of the catch, and (2) storage in a frozen state of the catch until it is landed.

(i) Land or landing—means bringing fish to shore or off-loading fish from a fishing vessel.

(j) Recreational fishing—means fishing for personal use of the catch. The catch, if any, is not used for sale or barter.

(k) Recreational fishing gear—means conventional angling tackle consisting of a rod, reel and line, and hooks with bait or lures attached; recreational fishing gear must be held by hand by the angler while the angler is playing the fish and reducing it to possession.

(l) Salmon—means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known as Pacific salmon, including but not limited to:

Chinook (king) salmon—*Oncorhynchus tshawytscha.*

Coho (silver) salmon—*Oncorhynchus kisutch.*

Pink (humpback) salmon—*Oncorhynchus gorbuscha.*

Chum (dog) salmon—*Oncorhynchus keta.*

Sockeye (red) salmon—*Oncorhynchus nerka.*

(m) Total length of salmon—means the shortest distance between the tip of the snout or jaw (whichever extends farthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force (other than fanning or swinging the tail) or mutilation of the salmon.

(n) Secretary—means the Secretary of Commerce or a designee.

(o) Single, barbless hook—means a hook with a single shank and point, with no secondary point or barb curving or projected in any other direction. Hooks manufactured with barbs can be made "barbless" by forcing the point of the barb flat against the main part of the point.

(p) Troll gear—means commercial fishing gear which consists of one or more lines used to drag hooks with bait or lures behind a moving vessel, and which lines originate from a spool or receptacle which is fixed to the vessel during the fishing operation and no part of which gear is disengaged from the vessel at any time during fishing.

§ 661.5 Salmon Fishery Management Area.

(a) The Pacific Council Salmon Management Area shall be divided into the following management areas for the regulation of commercial and recreational salmon fishing, with the following lateral limits:

(1) Management Area A—(i) Northern limit (United States-Canada) is a line connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°03'25" W. long.;

48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(ii) Southern limit: 47°18'19" N. lat. (Point Grenville Light).

(2) Management Area B—(i) Northern limit: 47°18'19" N. lat. (Point Grenville Light).

(ii) Southern limit: 45°46'00" N. lat. (Cape Falcon).

(3) Management Area C—(i) Northern limit: 45°46'00" N. lat. (Cape Falcon).

(ii) Southern limit: 42°00'00" N. lat. (Oregon-California border).

(4) Management Area D—(i) Northern limit: 42°00'00" N. lat. (Oregon-California border).

(ii) Southern limit: 38°14'27" N. lat. (Tomales Point-Northern tip).

(5) Management Area E—(i) Northern limit: 38°14'27" N. lat. (Tomales Point-Northern tip).

(ii) Southern limit: (United States-Mexico) is a line connecting the following coordinates:

32°35'22.11" N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(b) Any person fishing subject to this part 661 shall be bound by the above described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

(c) The inner boundary of each Management Area is a line coterminous with the seaward boundaries of Washington, Oregon and California (the "3-mile limit"), and the outer boundary of each Management Area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

§ 661.6 General restrictions.

The following restrictions apply to all commercial and recreational salmon fishing in management areas A, B, C, D, and E, except that the restrictions in this part 661 shall not apply to fishing for pink and sockeye salmon pursuant to the convention for the protection, preservation, and extension of the sockeye salmon fishery of the Fraser River system, as amended by the Pink Salmon Protocol, north of 48° north latitude.

(a) No person shall use nets to fish for salmon except that a hand-held net may be used to bring hooked salmon on board a fishing vessel.

(b) No person shall fish for or take and retain any species of salmon:

(1) During closed seasons or in closed areas specified in this Part;

(2) By means of gear or methods prohibited by this part; or

(3) Once any catch limit specified in this part is attained.

(c) No person shall take and retain any species of salmon which is less than the minimum total length specified in this part (see subsections 661.4 (e), (f) and (h) and 661.6 (f), (g), (h), and 661.8(c) regarding "Dressed, Heads-off" salmon aboard a "Freezer Trolling Vessel").

(d) No person shall fail to unhook and return to the water immediately and with the least possible injury any salmon, the retention of which is prohibited by this part.

(e) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken in violation of the act, this part, or any other regulation issued under the act.

(f) No person shall possess on board a fishing vessel any salmon taken in the Pacific Council Salmon Management Area for which a minimum total length is set by these regulations in such condition that its total length cannot be determined; except that "Dressed, Heads-off" salmon, (defined in 661.4(e)) may be possessed aboard a "Freezer Trolling Vessel" (defined in 661.4(h)).

(g) No person shall possess on a fishing vessel during open season in any Pacific Council Salmon Management Area, any salmon which is less than the minimum total length for that species in that Management Area; except that "Dressed, Heads-off" salmon (defined in 661.4(e)) aboard a "Freezer Trolling Vessel" (defined in 661.4(h)) shall not be less than the "Dressed, Heads-off length" (defined in 661.4(d)) for that species in that Management Area. During a closed season in any Pacific Salmon Management Area, salmon of any size that were legally caught in another area may be possessed on a fishing vessel.

(h) No person, while on board a fishing vessel, shall mutilate or otherwise disfigure any salmon in a manner which extends its length to conform to any minimum "Total Length" or "Dressed, Heads-off length" requirement specified in this part. Salmon may be gilled and gutted, if in doing so there is no separation of vertebrae. In addition, on board a Freezer Trolling Vessel salmon may be prepared for onboard freezing, as defined in 661.4(e), if in doing so there is no further separation of vertebrae.

(i) No person shall:

(1) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this act, this part, or any other regulation issued under the act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (1) of this subsection;

(3) Resist a lawful arrest for any act prohibited by this part; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part.

§ 661.7 Facilitation of enforcement.

The operator of each fishing vessel shall immediately comply with instructions issued by authorized officers to facilitate safe boarding and inspection of the vessel for purposes of enforcing the act and this part.

§ 661.8 Penalties.

Any person or fishing vessel found to be in violation of this part 661 will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the act.

§ 661.9 Commercial fishing.

(a) *Open seasons and areas.* The Pacific Council salmon management area is closed to commercial salmon fishing except as opened by this part or by superseding regulations. All open seasons shall begin at 0001 hours and terminate at 2400 hours local time on the dates specified herein.

(1) In management area A, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1978, and terminate on June 14, 1978.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1978, and terminate on September 15, 1978.

(2) In management area B, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1978, and terminate on June 14, 1978.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1978, and terminate on October 31, 1978.

(3) In management area C, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1978, and terminate on June 14, 1978.

(ii) The season for all salmon species, including coho, shall begin on June 15, 1978, and terminate on October 31, 1978.

(4) In management areas D and E, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on April 15, 1978, and terminate on May 14, 1978.

(ii) The season for all salmon species, including coho, shall begin on May 15, 1978, and terminate on September 30, 1978.

(b) *Gear restrictions.* (1) No person shall engage in commercial salmon fishing using other than troll gear in the Pacific Council salmon management area. However, in management areas D and E, troll gear need not be fixed to the fishing vessel as specified in 661.4(o).

(2) No person shall engage in commercial salmon fishing in the Pacific Council salmon management area using other than single, barbless hooks prior to May 15 in management areas D and E, prior to June 15 in area C, or prior to July 1 in management areas A and B; except that bait hooks with natural bait attached as the primary attraction, and hooks on artificial salmon plugs, may be barbed. Spoons, wobblers, dodgers, and flexible plastic lures shall not be considered artificial salmon plugs under this subparagraph, and therefore must be equipped with barbless hooks in the management areas, and during the time periods, described in this subparagraph.

(c) Length restrictions.

Minimum total length of salmon and minimum dressed, heads-off length of salmon are as follows:

	Minimum	
	Total length[1]	Dressed, heads-off length[1]
Areas A and B:		
Chinook	28	21½
Coho	16	12
Area C:		
Chinook	26	19½
Coho	16	12
Areas D and E:		
Chinook	26	19½
Coho	22	16½
All areas:		
Species other than Chinook and coho	None	None

[1] In inches.

(d) *Vessel inspection and certification.* Any fishing vessel 26 feet or longer with coho salmon on board in management areas D and E between May 15 and May 25, 1978, shall have on board documentation of 1978 hold inspection required by the State of California.

(e) *Steelhead.* No person engaged in commercial fishing shall take and retain or possess any steelhead (*Salmo gairdnerii*) within the Pacific Council Salmon Management Area.

§ 661.10 Recreational fishing.

(a) *Open seasons and areas.* The Pacific Council salmon management area is closed to recreational salmon fishing except as opened by this part or by superseding regulations. All seasons shall begin at 0001 hours and terminate at 2400 hours local time on the dates specified herein.

(1) In management areas A, B, and C the season shall open on April 29, 1978, and terminate on October 31, 1978.

(2) In management area D the season shall be open the entire year.

(3) In management area E the season shall open on February 18, 1978, and terminate on November 12, 1978.

(b) *Gear restrictions.* (1) No person shall engage in recreational salmon fishing in the Pacific Council salmon management area using other than recreational fishing gear as defined in subsection 661.4(k), to which may be attached not more than one artificial lure or natural bait, with no more than four single or multiple hooks.

(2) No person shall use more than one rod and line for recreational salmon fishing in management areas A, B, and C; however, there shall be no limit to the number of rods and/or lines used for recreational salmon fishing in management areas D and E.

(3) No person engaged in recreational fishing in management areas D and E, may use weights of more than four (4) pounds attached directly to the line.

(c) Length restrictions.

Minimum total length of salmon are as follows:

	Minimum total length[1]
Areas A and B:	
Chinook	24
Coho	16
Area C:	
Chinook	22
Coho	16
Areas D and E:	
Chinook and coho	22
All:	
Species other than Chinook and coho	None

[1] In inches.

[2] Except that 1 Chinook or coho per day may be less than 22 inches but not less than 20 inches.

(d) *Catch limits.* No person shall take and retain, or possess more than three salmon per day while in the Pacific Council Salmon Management Area.

§ 661.11 Treaty Indian fishing.

(a) Persons entitled to exercise rights under the Treaty with the Makah may fish for all salmon species in that portion of management area A north of 48°07'36" north latitude (Sandy Point) from May 1, 1978, to October 31, 1978, at 2400 hours Pacific standard time. Except as specified by this subsection (a) such persons are subject to the provisions of this part 661, the act, and any other regulation issued under the act.

(b) Members of the Quileute and Hoh Tribes entitled to exercise rights under the Treaty of Olympia, may fish for all salmon species in that portion of management area A south of 48°07'36" north latitude (Sandy Point) and north of 47°31'42" north latitude (mouth of Queets River) from May 1, 1978, to October 31, 1978, at 2400 hours Pacific standard time. Except as specified by this subsection (b) such persons are subject to the provisions of this part 661, the act, and any other regulation issued under the act.

(c) Members of the Quinault Tribe entitled to exercise rights under the Treaty of Olympia, may fish for all salmon species in that portion of management areas A and B, south of 47°40'5" north latitude (Destruction Island) and north of 46°53'3" north latitude (Point Chehalis) from May 1, 1978, to October 31, 1978, at 2400 hours Pacific standard time. Except as specified by this subsection (c) such persons are subject to the provisions of this part 661, the act, and any other regulation issued under the act.

(d) The Secretary will give due consideration in promulgating emergency regulations under section 661.12 to the treaty fishing rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations.

§ 661.12 Emergency regulations.

(a) The Secretary may issue emergency regulations under § 305(e) of the act, if an emergency involving the resource is found, that will be announced by publication of a notice in the FEDERAL REGISTER.

(b) The Council may, at any time, make recommendations to the Secretary for emergency regulations under this section.

§ 661.13 Catch reports.

This part recognizes that catch and effort data necessary for implementation of this fishery management plan shall be collected by the States of Washington, Oregon, and California under existing State data collection provisions. No additional catch reports will be required of fishermen or processors as long as the data collection and reporting systems operated by State agencies continue to provide the Secretary with statistical information adequate for management. Reporting requirements may be implemented by emergency regulations if this reporting system becomes inadequate for management purposes.

§ 661.14 Test fisheries.

The Secretary may, upon recommendation of the Pacific Council, allow in the Pacific Council salmon management area such limited test fisheries for scientific purposes as may be proposed by the Pacific Council, the Federal Government, State governments, and Treaty Indian Tribes having usual and accustomed fishing grounds in the Pacific Council salmon management area.

[FR Doc. 78-19109 Filed 7-10-78; 8:45 am]

proposed rules

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 225]

[Regulation Y; Docket No. R-0132]

NONBANKING ACTIVITIES

Proposed Rule Amending Notice Procedures for Commencement of Nonbank Activities and Acquisitions of Shares or Assets of Companies Engaged in Nonbank Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the procedures for bank holding companies to obtain permission to engage in nonbank activities or to acquire shares or assets of companies engaged in nonbank activities. Under the Board's present regulations bank holding companies must publish notice in newspapers of general circulation of their intention to commence such activities or acquire such shares or assets. The proposed rule would dispense with that requirement and would proved instead that the Board would publish notice in the FEDERAL REGISTER, and would shorten the comment period and the normal processing time for de novo applications. This rule is being proposed because several years' experience indicates that the newspaper notices may not be accomplishing their intended purpose.

DATE: Comments must be received by July 31, 1978.

ADDRESS: Send comments to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0132.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel, 202-452-3274, or James McAfee, Senior Attorney, 202-452-3707, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) Sections 225.4(b) (1) and (2) of the Board's Regulation Y (12 CFR § 225.4(b) (1) and (2)) require that bank holding companies publish, in newspapers of general circulation in the communities to be served, a notice of any proposal to engage in nonbank activities under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)), or to acquire or retain shares or assets of companies engaged in such activities. Several years' experience with this requirement, which is intended to provide notice of proposed nonbank expansion by bank holding companies to interested persons and to allow them an opportunity to comment on individual proposals, indicates that the required newspaper notices may not be accomplishing their intended purpose to any extent that justifies the burden they impose on holding companies. The Board therefore is inviting comment on a proposed rule that would replace newspaper notices with notices published by the Board in the FEDERAL REGISTER. The proposed amendment would also shorten from 30 to 20 days the comment period on de novo applications, and would shorten the application period to offset delays the new procedure may entail. Under present procedures, a bank holding company may engage de novo in approved nonbank activities 45 days after notice to its Reserve Bank, unless advised otherwise. As proposed this period would run 30 days from publication of notice in the FEDERAL REGISTER.

(2) To aid the Board in its consideration of this matter, interested persons are invited to submit relevant data, views, comments, or arguments. The Board particularly encourages interested persons to suggest informal notice procedures, such as the maintenance of mailing lists and submission of FEDERAL REGISTER notices to trade journals, that may usefully supplement FEDERAL REGISTER notices. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 31, 1978. All material submitted should include the docket number R-0132. Such information will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR § 261.6(a)).

(3) This action is proposed pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding company Act (12 U.S.C. §§ 1843(c)(8) and 1844(b)):

Sections 225.4(b) (1) and (2) of the Board's regulation Y (12 CFR §§ 225.4(b) (1) and (2)) would be amended to read as follows:

§ 225.4 Nonbanking activities.

* * * * *

(b) (1) *De novo entry.* A bank holding compay may apply to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in activities described in paragraph (a) of this section, by filing with its Reserve Bank a notice of the proposal (in substantially the same form as F.R. Y-4A). The Board will publish in the FEDERAL REGISTER notice of any such proposal and will give interested persons an opportunity to express their views on the proposal to the Reserve Bank. The activity may be commenced or continued 30 days after the notice has been published, unless the company is notified to the contrary within that time or unless it is permitted to consummate the transaction at an earlier date on the basis of exigent circumstances of a particular case. If adverse comments of a substantive nature are received within 20 days after publication of the notice,[1] or if it otherwise appears appropriate in a particular case, the Reserve Bank may inform the company that (i) the proposal shall not be consummated until specifically authorized by the Reserve Bank or by the Board or (ii) the proposal should be processed in accordance with the procedures of subparagraph (2) of this paragraph.

(2) *Acquisiton of going concern.* A bank holding company may apply to the Board to acquire or retain the assets of or shares in a company engaged solely in activities described in paragraph (a) of this section by filing an application with its Reserve Bank (Form F.R. Y-4). The Board will publish in the FEDERAL REGISTER notice of any such application and will give interested persons an opportunity to express their views (including, where appropriate, by means of a hearing) on the question whether performance of the activity proposed by the holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that

[1] If a Reserve Bank decides that adverse comments are not of a substantive nature, the person submitting the comments may request review by the Board of that decisoin in accordance with the provisions of § 265.3 of the Board's rules regarding delegation of authority (12 CFR 265.3)by filing a petition for review with the Secretary of the Board.

outweigh possible adverse effects, such as undue conentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

Board of Governors of the Federal Reserve System, June 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-19028 Filed 7-10-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0019]

JOHN HANCOCK MUTUAL LIFE INSURANCE CO., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, these four (4) provisionally accepted consent agreements, among other things, would require four (4) Boston, Mass., insurance companies to cease interlocking directors by allowing any individual to sit on their boards who is simultaneously sitting on the board of any of the other boards or of any other competitive firms. The consent orders would additionally require the companies to initiate prescribed procedures designed to eliminate interlocking directorates, and to submit detailed compliance reports to the Commission annually for a 5-year period.

DATE: Comments must be received on or before September 7, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, Room 372, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, have been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

DOCKET NO.——, AGREEMENT CONTAINING CONSENT ORDER RE RESPONDENT JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

In the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation.

The Bureau of Competition of the Federal Trade Commission ("Commission") having indicated its intention to recommend that the Commission issue a complaint (exhibit A hereto) against the above-named respondents, charging violations of section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act and it now appearing that Respondent John Hancock Mutual Life Insurance Co. ("Respondent"), by its board chairman and chief executive officer and its attorney, is willing to enter into an agreement containing an order to cease and desist in the form set forth below:

It is hereby agreed by and between Respondent by its duly authorized officer, Gerhard D. Bleicken, chairman of the board and chief executive officer, and its attorney, and counsel for the Commission that:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at John Hancock Place, Boston, Mass.

2. For the purpose of this proceeding only and for no other purpose except compliance and enforcement proceedings hereunder, Respondent admits the jurisdictional facts set forth in the complaint to be issued by the Commission in the form of exhibit A hereto but it is expressly understood and agreed that this admission shall not be introduced in evidence against Respondent or referred to in any other action, suit or proceeding against Respondent or otherwise used against Respondent.

3. Respondent waives: (a) any further procedural steps; (b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) all rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. The Commission may (1) accept the agreement and simultaneously issue the complaint, (2) reject the agreement and issue the complaint thus placing the matter in adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If this agreement is accepted, the Commission will place it on the public record, and at the same time will make available an explanation of the provisions of the order and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the order. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, if comments or views submitted to the Commission, or other information available to the Commission, disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate, the Commission may withdraw its acceptance of this agreement and so notify Respondent, in which event it may place the matter in adjudication for further proceedings, or take such other action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the complaint proposed to be issued against Respondent by the Commission (exhibit A hereto). In the event this agreement and the order contemplated hereby do not become final, neither the agreement nor the order may be introduced in evidence or referred to in any action, suit or proceeding or otherwise used against Respondent.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 2.34 of the Commission's rules, the Commission may, without further notice to Respondent, issue its decision containing the following order to cease and desist in disposition of the proceeding, and make information public in respect thereto. When so entered, the order to cease and desist shall become final upon service and shall have the same force and effect, and may be altered, modified or set aside in the same manner and within the same time provided by statute, as other orders. The complaint as issued by the Commission may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or to contradict the terms of the order.

7. Respondent has read the complaint proposed to be issued against it by the Commission (exhibit A hereto), and the order contemplated hereby, and understands that once the order has been issued, it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That the following definitions shall apply in this order:

(a) "John Hancock" means John Hancock Mutual Life Insurance Co., the Respondent, and all of its insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of con-

trol for nonstock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any State and which files an annual statement to Insurance Commissioner in such State or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC annual statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

II

It is further ordered, That Respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of Respondent if such individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Co. so long as Respondent and Liberty Mutual Insurance Co. are in competition in the underwriting of one or more lines of insurance.

III

It is further ordered, That Respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the Respondent, the Respondent shall report in writing to the Commission that no director of the Respondent nor any nominee for director of the Respondent is then a director or nominee for director of Liberty Mutual Insurance Co. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the Respondent shall report in writing to the Commission that no director of the Respondent, nor any nominee for director of the Respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in paragraph III(b), been disclosed and determined to be in competition with John Hancock, or that all legally available steps to remove or prevent such persons from service on the board of Respondent have been taken.

(b) Prior to and as the basis for making the annual report required in paragraph III(a) hereto, the Respondent shall do the following:

(1) The Respondent shall require a written report to the Respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded $2,000,000. When requesting such report, the Respondent shall furnish each director and nominee for director a copy of the Complaint and Order in this proceeding.

(2) The Respondent shall determine by reviewing "Best's Insurance Reports, Fire and Casuality" and "Best's Insurance Reports, Life," published by Alfred M. Best Co., Inc., and consulting appropriate personnel within John Hancock, whether the lists of lines of insurance reported to the Respondent pursuant to paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by John Hancock for which, during the immediately preceding calendar year, annual premiums received by John Hancock exceeded $2,000,000.

(c) In the event that the process of review required by paragraph III(b) hereof discloses the existence of competition in any line of insurance between John Hancock and any other insurance company identified in any report furnished pursuant to paragraph III(b)(1), the Respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the Respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the Respondent fails or refuses to provide in good faith the report required by paragraph III(b)(1) hereof, the Respondent shall prevent such person from remaining as a director or nominee for director of the Respondent, provided that the Respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The Respondent's report to the Commission, which is to be made on an annual basis as described in paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by paragraph III(b)(1) hereof and a copy of the Respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the Respondent has complied with this order.

It is further ordered, That the provisions of paragraph III hereof shall not apply where the corporation referred to is included in the definition of John Hancock above or is John Hancock's (1) parent, (2) sister, or (3) subsidiary.

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

DOCKET NO. ——, AGREEMENT CONTAINING CONSENT ORDER RE RESPONDENT LIBERTY MUTUAL INSURANCE CO.

In the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation.

The Bureau of Competition of the Federal Trade Commission ("Commission") having indicated its intention to recommend that the Commission issue a complaint (exhibit A hereto) against the above-named respondents, charging violations of section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act and it now appearing that respondent Liberty Mutual Insurance Co. ("Respondent"), by its Board Chairman and its attorney, is willing to enter into an agreement containing an order to cease and desist in the form set forth below:

It is hereby agreed by and between respondent by its duly authorized officer, Frank L. Farwell, Chairman of the Board, and its attorney, and counsel for the Commission that:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 175 Berkeley Street, Boston, Mass.

2. For the purpose of this proceeding only and for no other purpose except compliance and enforcement proceedings hereunder, respondent admits the jurisdictional facts set forth in the complaint to be issued by the Commission in the form of exhibit A hereto but it is expressly understood and agreed that this admission shall not be introduced in evidence against respondent or referred to in any other action, suit or proceeding against respondent or otherwise used against respondent.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. The Commission may (1) accept the agreement and simultaneously issue the complaint, (2) reject the agreement and issue the complaint thus placing the matter in adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If this agreement is accepted, the Commission will place it on the public record, and at the same time will make available an explanation of the provisions of the order and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the order. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, if comments or views submitted to the Commission, or other information available to the Commission, disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate, the Commission may withdraw its acceptance of this agreement and so notify respondent, in which event it may place the matter in adjudication for further proceedings, or take such other action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint proposed to be issued against respondent by the Commission (exhibit A hereto). In the event this agreement and the order contemplated hereby do not become final, neither the

agreement nor the order may be introduced in evidence or referred to in any action, suit or proceeding or otherwise used against respondent.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 2.34 of the Commission's rules, the Commission may, without further notice to respondent, issue its decision containing the following order to cease and desist in disposition of the proceeding, and make information public in respect thereto. When so entered, the order to cease and desist shall become final upon service and shall have the same force and effect, and may be altered, modified or set aside in the same manner and within the same time provided by statute, as other orders. The complaint as issued by the Commission may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or to contradict the terms of the order.

7. Respondent has read the complaint proposed to be issued against it by the Commission (exhibit A hereto), and the order contemplated hereby, and understands that once the order has been issued, it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered that the following definitions shall apply in this order:

(a) "Liberty Mutual" means Liberty Mutual Insurance Co., the respondent, Liberty Mutual Fire Insurance Co. and all of their insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any State and which files an annual statement to Insurance Commissioner in such State or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC annual statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

II

It is further ordered that respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of John Hancock Mutual Life Insurance Co. or New England Mutual Life Insurance Co. or State Mutual Life Assurance Co. of America so long as respondent and any of the said companies of which said individual is or would at the same time be a director or nominee for director are in competition in the underwriting of one or more lines of insurance.

III

It is further ordered that respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of John Hancock Mutual Life Insurance Co. or New England Mutual Life Insurance Co. or State Mutual Life Assurance Co. of America. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in paragraph III(b), been disclosed and determined to be in competition with Liberty Mutual, or that all legally available steps to remove or prevent such persons from service on the Board of Respondent have been taken.

(b) Prior to and as the basis for making the annual report required in paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded $2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and Order in this proceeding.

(2) The respondent shall determine by reviewing Best's Insurance Reports, Fire and Casualty and Best's Insurance Reports, Life, published by Alfred M. Best Co., Inc., and consulting appropriate personnel within Liberty Mutual, whether the lists of lines of insurance reported to the Respondent pursuant to paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to paragraph III (b)(1) hereof is in competition with any line of insurance underwritten by Liberty Mutual for which, during the immediately preceding calendar year, annual premiums received by Liberty Mutual exceeded $2,000,000.

(c) In the event that the process of review require by paragraph III(b) hereof discloses the existence of competition in any line of insurance between Liberty Mutual and any other insurance company identified in any report furnished pursuant to paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the Respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

IV

It is further ordered that the provisions of paragraph III hereof shall not apply where the corporation referred to is included in the definition of Liberty Mutual above or is Liberty Mutual's (1) parent, (2) sister, or (3) subsidiary.

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

DOCKET NO.——, AGREEMENT CONTAINING CONSENT ORDER RE RESPONDENT NEW ENGLAND MUTUAL LIFE INSURANCE CO.

In the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation.

The Bureau of Competition of the Federal Trade Commission ("Commission") having indicated its intention to recommend that the Commission issue a complaint (exhibit A hereto) against the above-named respondents, charging violations of section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act and it now appearing that respondent New England Mutual Life Insurance Co. ("Respondent"), by its board chairman and its attorney, is willing to enter into an agreement containing an order to cease and desist in the form set forth below:

It is hereby agreed by and between respondent by its duly authorized officer, Abram T. Collier, chairman of the board, and its attorney, and counsel for the Commission that:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 501 Boylston Street, Boston, Mass.

2. For the purpose of this proceeding only and for no other purpose except compliance and enforcement proceedings hereunder, re-

spondent admits the jurisdictional facts set forth in the complaint to be issued by the Commission in the form of exhibit A hereto but it is expressly understood and agreed that this admission shall not be introduced in evidence against respondent or referred to in any other action, suit or proceeding against respondent or otherwise used against respondent.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contains a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. The Commission may (1) accept the agreement and simultaneously issue the complaint, (2) reject the agreement and issue the complaint thus placing the matter in adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If this agreement is accepted, the Commission will place it on the public record, and at the same time will make available an explanation of the provisions of the order and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the order. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, if comments or views submitted to the Commission, or other information available to the Commission, disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate, the Commission may withdraw its acceptance of this agreement and so notify respondent, in which event it may place the matter in adjudication for further proceedings, or take such other action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint proposed to be issued against respondent by the Commission (exhibit A hereto). In the event this agreement and the order contemplated hereby do not become final, neither the agreement nor the order may be introduced in evidence or referred to in any action, suit or proceeding or otherwise used against respondent.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 2.34 of the Commission's rules, the Commission may, without further notice to respondent, issue its decision containing the following order to cease and desist in disposition of the proceeding, and make information public in respect thereto. When so entered, the order to cease and desist shall become final upon service and shall have the same force and effect, and may be altered, modified or set aside in the same manner and within the same time provided by statute, as other orders. The complaint as issued by the Commission may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or to contradict the terms of the order.

7. Respondent has read the complaint proposed to be issued against it by the Commission (exhibit A hereto), and the order contemplated hereby, and understands that once the order has been issued, it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered that the following definitions shall apply in this order:

(a) "New England Mutual" means New England Mutual Life Insurance Co., the respondent, and all of its insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for nonstock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any State and which files an annual statement to insurance commissioner in such State or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC annual statement to insurance commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

II

It is further ordered that respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Co. so long as respondent and any of the said companies of which said individual is or would at the same time be a director or nominee for director are in competition in the underwiting of one or more lines of insurance.

III

It is further ordered that respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of Liberty Mutual Insurance Co. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in paragraph III(b), been disclosed and determined to be in competition with New England Mutual, or that all legally available steps to remove or prevent such persons from service on the board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded $2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine by reviewing Best's Insurance Reports, Fire and Casualty and Best's Insurance Reports, Life, published by Alfred M. Best Co., Inc., and consulting appropriate personnel within New England Mutual, whether the lists of lines of insurance reported to the respondent pursuant to paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by New England Mutual for which, during the immediately preceding calendar year, annual premiums received by New England Mutual exceeded $2,000,000.

(c) In the event that the process of review required by paragraph III(b) hereof discloses the existence of competition in any line of insurance between New England Mutual and any other insurance company identified in any report furnished pursuant to paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, *Provided*, That the respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual

basis as described in paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

IV

It is further ordered, That the provisions of paragraph III hereof shall not apply where the corporation referred to is included in the definition of New England Mutual above or is New England Mutual's: (1) parent, (2) sister, or (3) subsidiary.

UNITED STATES OF AMERICA, BEFORE FEDERAL TRADE COMMISSION

DOCKET NO. ——, AGREEMENT CONTAINING CONSENT ORDER RE RESPONDENT STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA

In the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation.

The Bureau of Competition of the Federal Trade Commission ("Commission") having indicated its intention to recommend that the Commission issue a complaint (exhibit A hereto) against the above-named respondents, charging violations of section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act and it now appearing that respondent State Mutual Life Assurance Co. of America ("respondent"), by its president and its attorney, is willing to enter into an agreement containing an order to cease and desist in the form set forth below:

It is hereby agreed by and between respondent by its duly authorized officer, W. Douglas Bell, president, and its attorney, and counsel for the Commission that:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 440 Lincoln Street, Worcester, Mass.

2. For the purpose of this proceeding only and for no other purpose except compliance and enforcement proceedings hereunder, respondent admits the jurisdictional facts set forth in the complaint to be issued by the Commission in the form of exhibit A hereto but it is expressly understood and agreed that this admission shall not be introduced in evidence against respondent or referred to in any other action, suit or proceeding against respondent or otherwise used against respondent.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. The Commission may: (1) Accept the agreement and simultaneously issue the complaint, (2) reject the agreement and issue the complaint thus placing the matter in adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If this agreement is accepted, the Commission will place it on the public record, and at the same time will make available an explanation of the provisions of the order and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the order. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, if comments or views submitted to the Commission, or other information available to the Commission, disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate, the Commission may withdraw its acceptance of this agreement and so notify respondent, in which event it may place the matter in adjudication for further proceedings, or take such other action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint proposed to be issued against respondent by the Commission (exhibit A hereto). In the event this agreement and the order contemplated hereby do not become final, neither the agreement nor the order may be introduced in evidence or referred to in any action, suit, or proceeding or otherwise used against respondent.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 2.34 of the Commission's rules, the Commission may, without further notice to respondent, issue its decision containing the following order to cease and desist in disposition of the proceeding, and make information public in respect thereto. When so entered, the order to cease and desist shall become final upon service and shall have the same force and effect, and may be altered, modified or set aside in the same manner and within the same time provided by statute, as other orders. The complaint as issued by the Commission may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or to contradict the terms of the order.

7. Respondent has read the complaint proposed to be issued against it by the Commission (exhibit A hereto), and the order contemplated hereby, and understands that once the order has been issued, it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That the following definitions shall apply in this order:

(a) "State Mutual" means State Mutual Life Assurance Co. of America, the respondent, and all insurance company members of "the America Group," including American Variable Annuity Life Assurance Co., the Hanover Insurance Co., Worcester Mutual Insurance Co., and the Beacon Mutual Indemnity Co., and all of their insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for nonstock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any State and which files an annual statement to insurance commissioner in such State or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC annual statement to insurance commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister, or parent.

II

It is further ordered, That respondent, its successors, and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Co. so long as respondent and Liberty Mutual Insurance Co. are in competition in the underwriting of one or more lines of insurance.

III

It is further ordered, That respondent, its successors, and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of Liberty Mutual Insurance Co. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in paragraph III(b), been disclosed and determined to be in competition with State Mutual, or that all legally available steps to remove or prevent such persons from service on the board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a di-

rector or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded $2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine by reviewing Best's Insurance Reports, Fire and Casualty and Best's Insurance Reports, Life, published by Alfred M. Best Co., Inc., and consulting appropriate personnel within State Mutual, whether the lists of lines of insurance reported to the respondent pursuant to paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by State Mutual for which, during the immediately preceding calendar year, annual premiums received by State Mutual exceeded $2,000,000.

(c) In the event that the process of review required by paragraph III(b) hereof discloses the existence of competition in any line of insurance between State Mutual and any other insurance company identified in any report furnished pursuant to paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination, or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

IV

It is further ordered, That the provisions of paragraph III hereof shall not apply where the corporation referred to is included in the definition of State Mutual above or is State Mutual's: (1) parent, (2) sister, or (3) subsidiary.

EXHIBIT "A"—UNITED STATES OF AMERICA, BEFORE FEDERAL TRADE COMMISSION

DOCKET NO.——

COMPLAINT

In the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation.

The Federal Trade Commission having reason to believe that the above-named respondents have violated section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof, would be in the interest of the public, issues this complaint, stating its charges as follows:

Paragraph 1. The following definitions apply in this complaint:

(a) "John Hancock" means John Hancock Mutual Life Insurance Co., the respondent, and all of its insurance company subsidiaries.

(b) "Liberty Mutual" means Liberty Mutual Insurance Co., the respondent, Liberty Mutual Fire Insurance Co. and all of their insurance company subsidiaries.

(c) "New England Mutual" means New England Mutual Life Insurance Co., the respondent, and all of its insurance company subsidiaries.

(d) "State Mutual" means State Mutual Life Assurance Co. of America, the respondent, and all insurance company members of "the America Group," including American Variable Annuity Life Assurance Co., the Hanover Insurance Co., Worcester Mutual Insurance Co., and the Beacon Mutual Indemnity Co., and all of their insurance company subsidiaries.

(e) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(f) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for nonstock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for nonstock corporations) of the subject corporation.

(g) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any State and which files an annual statement to insurance commissioner in such State or any corporation which has such an insurance company as a subsidiary.

(h) "Lines of insurance" means the lines of business shown in the NAIC annual statement to insurance commissioner blank forms, as amended from time to time.

(i) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

Paragraph 2. Respondent John Hancock Mutual Life Insurance Co. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at John Hancock Place, Boston, Mass. 02117, and has capital, surplus, and undivided profits aggregating more than $1 million.

Paragraph 3. Respondent Liberty Mutual Insurance Co. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 175 Berkeley Street, Boston, Mass. 02117, and has capital, surplus, and undivided profits aggregating more than $1 million.

Paragraph 4. Respondent New England Mutual Life Insurance Co. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 501 Boylston Street, Boston, Mass. 02117, and has capital, surplus, and undivided profits aggregating more than one million dollars.

Paragraph 5. Respondent State Mutual Life Assurance Co. of America is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 440 Lincoln Street, Worcester, Mass. 01605, and has capital, surplus, and undivided profits aggregating more than $1 million.

Paragraph 6. Roger C. Damon is a member of the boards of directors of Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. He is also a member of the finance committee of New England Mutual Life Insurance Co.

Paragraph 7. Thomas J. Galligan, Jr., is a member of the boards of directors of Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. He is also a member of the finance committee of New England Mutual Life Insurance Co.

Paragraph 8. Richard D. Hill is a member of the boards of directors of Liberty Mutual Insurance Co. and John Hancock Mutual Life Insurance Co.

Paragraph 9. D. Thomas Trigg is a member of the boards of directors of Liberty Mutual Insurance Co. and State Mutual Life Assurance Co. of America.

Paragraph 10. John Hancock conducts its business in the 50 States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of business	Annual premiums written during 1975
Group accident and health	407,519,427
Ordinary life	586,604,691
Group life	212,735,047
Individual annuities	5,619,142

Paragraph Eleven. Liberty Mutual conducts its business in the 50 States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of business	Annual premiums written during 1975
Fire	6,482,250
Allied lines	4,561,032
Homeowner's multiple peril	56,062,660
Commercial multiple peril	21,324,904
Inland marine	12,081,305
Group accident and health	98,410,880
Other accident and health	2,924,900
Workmen's compensation	413,965,016
Other liability	112,867,361

Lines of business	Annual premiums written during 1975
Auto liability	271,919,902
Auto physical damage	124,330,409
Fidelity	2,157,232
Burglary/theft	2,025,214
Ordinary life	5,766,025
Group life	8,811,364
Individual annuities	66,331

Paragraph 12. New England Mutual conducts its business in the 50 States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of business	Annual premiums written during 1975
Group accident and health	56,167,752
Ordinary life	318,329,892
Group life	21,133,487
Individual annuities	22,791,633

Paragraph 13. State Mutual conducts its business in the 50 States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts.

Lines of business	Annual premiums written during 1975
Fire	24,765,253
Allied lines	10,683,161
Homeowner's multiple peril	34,434,834
Commercial multiple peril	23,957,896
Inland marine	6,497,439
Group accident and health	50,636,102
Other accident and health	4,086,048
Workmen's compensation	31,998.014
Other liability	103,356,934
Auto liability	55,692,894
Auto physical damage	41,380,235
Ocean marine	6,004,993
Aircraft	9,767,027
Surety	2,329,641
Ordinary life	103,594,266
Group life	18,621,943
Individual annuities	1,198,888

Paragraph 14. (a) By the nature of their business and the locations of their operations as hereinabove described, Liberty Mutual and New England Mutual are competitors of each other in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: Group accident and health, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between Liberty Mutual and New England Mutual would constitute a violation of the antitrust laws.

Paragraph 15. (a) By the nature of their business and the locations of their operations as hereinabove described, John Hancock and Liberty Mutual are competitors in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: Group accident and health, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between John Hancock and Liberty Mutual would constitute a violation of the antitrust laws.

Paragraph 16. (a) By the nature of their business and the locations of their operations as hereinabove described, State Mutual and Liberty Mutual are competitors of each other in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: Fire, allied lines, homeowner's multiple peril, commercial multiple peril, inland marine, group accident and health, other accident and health, workmen's compensation, other liability, auto liability, auto physical damage, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between State Mutual and Liberty Mutual would constitute a violation of the antitrust laws.

Paragraph 17. (a) John Hancock, Liberty Mutual, New England Mutual, and State Mutual conduct their business, as hereinabove described, in the District of Columbia and in various States of the United States.

(b) John Hancock, Liberty Mutual, New England Mutual, and State Mutual engage in "commerce" and conduct their business, including activities involving their boards of directors, so as to have an effect upon "commerce," as the term "commerce" is defined in section 4 of the Federal Trade Commission Act, 15 U.S.C. 44 and in section 1 of the Clayton Act, 15 U.S.C. 12.

Paragraph 18. Roger C. Damon's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. is a violation by Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. of section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co.

Paragraph 19. Thomas J. Galligan, Jr.'s simultaneous membership on the boards of directors of both Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. is a violation by Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co. of section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Co. and New England Mutual Life Insurance Co.

Paragraph 20. Richard D. Hill's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Co. and John Hancock Mutual Life Insurance Co. is a violation by Liberty Mutual Insurance Co. and John Hancock Mutual Life Insurance Co. of section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Co. and John Hancock Mutual Life Insurance Co.

Paragraph 21. D. Thomas Trigg's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Co. and State Mutual Life Assurance Co. of America is a violation by Liberty Mutual Insurance Co. and State Mutual Life Assurance Co. of America of section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Co. and State Mutual Life Assurance Co. of America.

Wherefore, the premises considered, the Federal Trade Commission on this —— day of ———— 197—, issues its complaint against said respondents.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has provisionally accepted agreements to enter consent orders from John Hancock Mutual Life Insurance Co., Liberty Mutual Insurance Co., New England Mutual Life Insurance Co., and State Mutual Life Assurance Co. of America, after an investigation of the companies in file No. 771-0019.

The proposed consent order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement, or, as presently contemplated, make final the agreement's proposed order.

In October of 1976, the Commission staff began an investigation to determine whether Liberty Mutual Insurance Co. ("Liberty Mutual") and three other insurance companies: John Hancock Mutual Life Insurance Co. ("John Hancock"), New England Mutual Life Insurance Co. ("New England Mutual"), and State Mutual Life Assurance Co. of America ("State Mutual") share common directors in violation of section 8 of the Clayton Act and section 5 of the Federal Trade Commission Act. Commission staff determined during the investigation that Liberty Mutual shared common directors with three other insurance companies: Roger C. Damon serves on the boards of Liberty Mutual and New England Mutual; Thoman J. Galligan serves on the boards of Liberty Mutual and New England Mutual; Richard D. Hill serves on the boards of Liberty Mutual and John Hancock; and D. Thomas Trigg serves on the boards of Liberty Mutual and State Mutual.

On the basis of the evidence accumulated by it, the Commission staff prepared a draft complaint charging Liberty Mutual, John Hancock, New England Mutual, and State Mutual with violations of the Clayton act and the Federal Trade Commission Act. Section 8 of the Clayton Act prohibits a person from serving simultaneously as a director of two or more competing corporations, and the draft complaint alleges that Liberty Mutual and the three other insurance companies (John Hancock, New England Mutual, and State Mutual) were in fact actual competitors of one another. Section 5 of the Federal Trade Commission Act prohibits unfair methods of competition and unfair or deceptive acts or practices. The draft complaint also alleges that the elimination by agreement or otherwise of competition between Liberty Mutual and the three other insurance companies (John Hancock, New England Mutual, and State Mutual) would constitute a violation of the antitrust laws.

Consequently, the proposed consent order against Liberty Mutual would prohibit the corporation from permitting any individual

to serve as a director or nominee for director if that person is or would be at the same time a director or nominee for director of the three named firms: John Hancock, New England Mutual, and State Mutual so long as these named firms are in competition in the underwriting of one or more lines of insurance. Likewise, the proposed consent orders against John Hancock, New England Mutual, and State Mutual would prohibit those corporations from permitting any individual to serve as a director or nominee for director if that person is or would be at the same time a director or nominee for director of Liberty Mutual so long as Liberty Mutual is in competition in the underwriting of one or more lines of insurance.

The consent order would also require John Hancock, Liberty Mutual, New England Mutual, and State Mutual to follow procedures, outlined in the consent orders, designed to detect and to prevent potential interlocking directorates or terminate any existing interlocking directorates with any insurance company in competition with their firm in the underwriting of one or more lines of insurance. These procedures include requiring the firms to review Best's Insurance Reports, Fire and Casualty and Best's Insurance Reports, Life and to consult appropriate personnel within their firms to determine whether lines of insurance underwritten by them compete with the lines of insurance underwritten by other companies with which their firm shares a common director.

Moreover, the four insurance companies would be required to submit a series of detailed compliance reports to the Commission annually for 5 years. These reports would require John Hancock, Liberty Mutual, New England Mutual, and State Mutual to report to the Commission that no director of their company, nor any nominee for director of their company, serves or is then a nominee for director on the board of directors of another insurance company which, pursuant to the review required by the order, has been disclosed and determined to be in competition with their firm. The insurance companies would also be required to obtain from each director and nominee for director and to submit to the Commission with its annual compliance report a written report identifying each other insurance company board on which the person serves as director or is then a nominee for director.

The proposed order would bind the four insurance companies and their successors and assigns. In order to insure that the proposed consent order would not only apply to the companies proper, but also to their related operations, the proposed consent orders define each company to include the companies themselves and all of their insurance company subsidiaries.

This order is part of a continuing effort by the Commission to encourage corporations to establish meaningful procedures which are designed to discover and eliminate or avoid illegal interlocking directorates between companies which compete with one another. The purpose of this analysis is to facilitate public comment, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in anyway its terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-19029 Filed 7-10-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, and 812]

[Docket No. 76N-0324]

MEDICAL DEVICES

Procedures for Investigational Device Exemptions; Correction

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation.

SUMMARY: In FR Doc. 78-12794 appearing on page 20726 in the issue of May 12, 1978, the date given in the first column under "DATES" for filing notices of appearance for a public hearing on the tentative final regulation is corrected from "June 19, 1978" to read "July 10, 1978." The corrected date is consistent with the date given in the notice of public hearing on investigational device exemptions, which published June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Morlock, Bureau of Medical Devices (HFK-122), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

Dated: July 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc.78-19025 Filed 7-10-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Parts 1710, 1715]

[Docket No. R-78-537]

LAND REGISTRATION; ADVERTISING, SALES PRACTICES, POSTING OF NOTICES OF SUSPENSION

Extension of Comment Period; Hearings

AGENCY: Office of Interstate Land Sales Registration.

ACTION: Notice of public hearings and extension of comment period.

SUMMARY: On June 1, 1978, proposed revisions to Parts 1710 and 1715 of the regulations of the Office of Interstate Land Sales Registration were published in the FEDERAL REGISTER with comments being received until July 31, 1978. In order that the general public, the industry and consumer groups may express their views on those proposals, public hearings have been scheduled in Washington, D.C., Dallas, Tex. and Denver, Colo. and the comment period is extended.

DATES: The hearings will be held in Washington, D.C., on July 17; in Dallas, Tex., on July 26 and in Denver, Colo. on July 27. The period for comment is extended to August 31, 1978.

ADDRESSES: Written statements and questions should be submitted to: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Public Hearings will be held in:

(1) The Departmental Conference Room, room 10233, HUD Building, 451 Seventh Street SW., Washington, D.C., on July 17 at 10 a.m.;

(2) Room 7A-23 of the Federal Building, 1114 Commerce Street, Dallas, Tex., on July 26 at 3 p.m.;

(3) The auditorium of the Post Office Building, 1823 Stout Street, Denver, Colo. on July 27 at 3 p.m.

While the hearings will be informal, they will be recorded.

FOR FURTHER INFORMATION CONTACT:

Thomas D. Barnett, Office of Interstate Land Sales Registration, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6716.

In order to utilize the available time to the best advantage and to allow as much participation as possible, oral statements from the floor will be limited to ten minutes per person. Those wishing to present more detailed statements should submit them as part of the regular comment procedure as specified in the publication of the proposed regulations.

A period of time will be set aside for questions from the floor. So that as many questions as possible may be considered, and answered, it is requested that they be as brief as possible. More complicated questions, or those dealing with unique problems, can best be answered in the regular comment procedure or individually outside of the hearing process.

Due to delays in the distribution of copies of the proposed regulations and so that everyone may have sufficient time to submit written comments, the comment period is extended to August 31, 1978.

All interested persons and groups are urged to participate in this rulemaking procedure.

Issued at Washington, D.C., on July 7, 1978.

PATRICIA M. WORTHY,
Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 78-19188 Filed 7-10-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 62]

[FRL 925-5]

APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Proposed Approval of Submittal Date Extension for Controlling Phosphate Fertilizer Plants in Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This action proposes approval of a request from the Texas Air Control Board (TACB) to extend the date for submittal of the plan to control fluoride emissions from phosphate fertilizer plants in Texas to October 31, 1978. Delays in developing adequate control regulations prompted the extension request from the TACB. No adverse impact is expected since the currently estimated fluoride emissions from applicable plants are at or below the control level recommended by EPA.

DATES: Comments must be received on or before August 10, 1978, in order to be considered by EPA in a final approval/disapproval decision.

ADDRESSES: Copies of the State's request and supporting material are available for inspection during normal business hours at the addresses below:

Environmental Protection Agency, Region VI, Air Programs Branch, 1201 Elm Street, Dallas, Tex. 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Anita B. Turpin, Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: As required by section 111(d) of the Clean Air Act, the Administrator published requirements for submittal of plans to control designated pollutants from designated facilities at 40 CFR Part 60, Subpart B. States are required to submit plans 9 months from the notice of availability of an emission guideline. Under § 60.27 the Administrator may approve an extension of this 9-month submittal requirement.

Notice of availability of an emission guideline for controlling fluoride emissions from phosphate fertilizer plants was published by EPA on March 1, 1977. This established a plan submittal date of December 1, 1977. The TACB submitted a request on January 9, 1978, to extend this submittal date until emission guidelines for other sources of fluoride emissions are available.

An open-ended extension of the submittal date is not justifiable. However, good cause was presented in the TACB request for extending the submittal date for a specific period of time.

Fluoride emissions estimated by the TACB show that levels are at or below the levels recommended by EPA. Since no increase in fluoride emissions from applicable sources is expected during the extension period, no adverse environmental effects should occur as a result of the extended submittal date.

The TACB is considered to be making a good faith effort to develop an adequate plan and regulations for controlling fluoride emissions. Therefore, an extension of the submittal date to October 31, 1978, is warranted.

This action is made under the authority of section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

Dated: June 29, 1978.

ADELENE HARRISON,
Regional Administrator.

[FR Doc. 78-18992 Filed 7-10-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 925-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the State of Connecticut Department of Environmental Protection to Housatonic Ever-Float Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to the Housatonic Ever-Float Co. The order requires the company to bring air emissions from its drying ovens in Shelton, Conn., into compliance with certain regulations contained in the federally approved Connecticut State implementation plan (SIP) by August 18, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before August 10, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, J. F. K. Federal Building, Boston, Mass. 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Attorney Sam Silverman at 617-223-5600, or Engineer Steven Fradkoff at 617-223-5330, both at the following address: U.S. Environmental Protection Agency, J. F. K. Federal Building, Room 2103, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: Housatonic Ever-Float Co. operates a float manufacturing plant in Shelton, Conn. The order under consideration addresses emissions from the drying ovens at the facility, which are subject to section 19-508-20(f)(2) of the Connecticut regulations for the abatement of air pollution. The regulation limits the emissions of organic solvents, a type of hydrocarbon, and is part of the federally approved Connecticut State implementation plan. The order requires final compliance with the regulation by August 18, 1978, through reformulation to reduce the photochemically reactive solvent portion of compound mixtures. The Housatonic Ever-Float Co. has consented to the terms of the order and is currently proceeding with the reformulation program.

Because this order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the act (section 304) would be similarly precluded. If approved, the order would

also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 9, 1978.

REBECCA W. HANMER,
Acting Regional Administrator, Region I.

STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION V. HOUSANTONIC EVER-FLOAT CO., SHELTON, CONN.

STATE ORDER NO. 664A

March 28, 1978; proposed order.
May 8, 1978; final order.

The Commissioner of the Department of Environmental Protection finds that the Housatonic Ever-Float Co., 6 Bridge Street, Shelton, Conn. operates drying ovens in violation of section(s) 19-508-20(e)(2) of the regulations for the abatement of air pollution (hereinafter, regulations).

By authority of section 19-514, et seq., of the Connecticut General Statutes and sec. 113(d) of the Clean Air Act, as amended, 42 U.S.C. sec. 7413(d) Housatonic Ever-Float Co. is hereby ordered to bring air pollutant emissions from the drying ovens into compliance with the applicable regulations by the dates set forth in the compliance timetable which is hereby incorporated by reference in this order and to maintain such compliance thereafter. A copy of applicable statute and regulations is enclosed.

State order No. 664A constitutes an amendment to State order No. 664. All the terms and conditions of State order No. 664 are hereby superseded by the terms and conditions of State order No. 664A set forth herein.

Failure to complete any step or steps (other than progress report requirements) detailed in this order and the accompanying compliance timetable by the specified date(s) shall be a violation of an order of the commissioner and shall subject the Housatonic Ever-Float Co. to liability for civil assessments up to $25,000 plus $1,000 per day persuant to section 22a-6b(a)(3) of the general statutes of Connecticut and section 22a-6b-603 of the department's regulations. Failure to submit a satisfactory progress report by the date(s) set forth in the compliance timetable shall subject the Housatonic Ever-Float Co. to liability for civil assessments pursuant to section 22a-6b(a)(3) of the general statutes and section 22a-6b-601 of the department's regulations. Departmental action under this authority in no way prevents the commissioner from seeking, in addition or separately, an injunction enforcing this State order together with penalties of up to five thousand dollars ($5,000) per week in court proceedings under section 19-516 of the general statutes. In addition, effective July 1, 1979, failure on the part of Housatonic Ever-Float Co. to comply with the terms of this order may subject Housatonic Ever-Float Co. to noncompliance penalties under section 120 of the Clean Air Act.

Questions concerning the terms of the order should be addressed to Mr. Gudmun Lovvoll, Assistant Director, Enforcement, Air Compliance Unit, telephone 566-3160. Any future correspondence should make reference to the State order number cited above.

STANLEY J. PAC,
Commissioner, Department of Environmental Protection.

COMPLIANCE TIMETABLE

Prime Contact: Cornell Kress. Title: President. Source Address: 6 Bridge Street, Shelton, Conn., Telephone No.: 735-9335. Violation: 19-508-20(f)(2).

Major Source X. Minimum Source ——. Proc. ——. Other ——.

Source: Housatonic Ever-Float Co. Premise No. 163-086. Order No. 664A. Date: March 28, 1978. N.V. No. 4570. Date: March 16, 1978. Equipment: Drying Ovens. Regulation No. ——. Inspector and No.: Wyga—No. 30.

Step and events leading to compliance	Timetable		Completed	Ver.	Wk.
1. Continue solvent reformulation program	June 19, 1978	25			1-4
2. Begin use of reformulated solvent for individual products as soon as they are developed as a means of interim emission reduction.	...do	25			5-8
3. Submit progress report, which is to include a summary of monthly solvent consumption as a means of emission monitoring.	...do	25			9-12
4. Submit progress report as outlined in step No. 3	July 19, 1978	29			13-16
5. Be in compliance with sec. 19-508-20(f)(2) of the regulations	Aug. 18, 1978	33			17-20
6. Complete and submit registration forms for any involved equipment and control apparatus as they will be operated in compliance. If registration for any involved equipment has been completed previously submit new registration using the same application number in box No. 1 except mark "amended" in the box. Identify the form with this State order number.	...do	33			21-24
7. Submit progress report; and continue submitting progress reports at precisely 1 month intervals if you are delinquent in complying with any steps of this order.	...do	33			25-38

Step and events leading to compliance	Timetable		Completed	Ver.	Wk.
7. Submit progress report; and continue submitting progress reports at precisely 1 month intervals if you are delinquent in complying with any steps of this order.	Aug. 18, 1978	33			39 40 41 42 43 44 45 46 47 48 49 50 51

[FR Doc. 78-18993 Filed 7-10-78; 8:45 am]

[6560-01]

[FRL 925-2]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the State of Connecticut Department of Environmental Protection to H. D. Catty Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to the H. D. Catty Corp. The order requires the company to bring air emissions from its printing presses 49 and 47 in Norwalk, Conn., into compliance with certain regulations contained in the federally approved Connecticut State implementation plan (SIP) by September 15, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before August 10, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103 J. F. K. Federal Building, Boston, Mass. 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Attorney Sam Silverman at 617-223-5600 or Engineer Steven Fradkoff at 617-223-5600, both at the following address: U.S. Environmental Protection Agency J. F. K. Federal Building, Room 2103, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: The H. D. Catty Corp. operates a giftwrap paper manufacturing plant in Norwalk, Conn. The order under consideration addresses emissions from presses 49 and 47 at the facility, which are subject to section 19-508-20(f)(4) of the Connecticut regulations for the abatement of air pollution. The regulation limits the emissions of organic solvents, a type of hydrocarbon, and is part of the federally approved Connecticut State implementation plan. The order requires final compliance with the regulation by September 15, 1978, through reformulation of solvent-based inks to water-based inks used in printing. The H. D. Catty Corp. has consented to the terms of the order and is currently proceeding with the reformulation program.

Because this order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 9, 1978.

REBECCA W. HANMER,
Acting Regional Administrator, Region I.

STATE OF CONNECTICUT, DEPARTMENT OF ENVIRONMENTAL PROTECTION V. H. D. CATTY CORP., NORWALK, CONN.

STATE ORDER NO. 646A

March 22, 1978; proposed order.

May 4, 1978; final order.

The Commissioner of the Department of Environmental Protection finds that the H. D. Catty Corp., 237 Main Street, Norwalk, Conn., operates presses 49 and 47 in violation of section(s) 19-508-20(f)(4) of the regulations for the abatement of air pollution (hereinafter, regulations).

By authority of section 19-514, et seq., of the Connecticut General Statutes and sec. 113(d) of the Clean Air Act, as amended, 42 U.S.C. sec. 7413(d) H. D. Catty Corp. is hereby ordered to bring air pollutant emissions from the presses 49 and 47 into compliance with the applicable regulations by the dates set forth in the compliance timetable which is hereby incorporated by reference in this order and to maintain such compliance thereafter. A copy of applicable statute and regulations is enclosed.

Failure to complete any step or steps (other than progress report requirements)

detailed in this order and the accompanying compliance timetable by the specified date(s) shall be a violation of an order of the commissioner and shall subject the H. D. Catty Corp. to liability for civil assessments up to $25,000 plus $1,000 per day pursuant to section 22a-6b(a)(3) of the general statutes of Connecticut and section 22a-6b-603 of the department's regulations. Failure to submit a satisfactory progress report by the date(s) set forth in the compliance timetable shall subject the H. D. Catty Corp. to liability for civil assessments pursuant to section 22a-6b(a)(3) of the general statutes and section 22a-6b-601 of the department's regulations. Departmental action under this authority in no way prevents the commissioner from seeking, in addition or separately, an injunction enforcing this State order together with penalties of up to five thousand dollars ($5,000) per week in court proceedings under section 19-516 of the general statutes. In addition, effective July 1, 1979, failure on the part of H. D. Catty Corp. to comply with the terms of this order may subject H. D. Catty Corp. to noncompliance penalties under section 120 of the Clean Air Act.

Questions concerning the terms of the order should be addressed to Mr. Gudmun Lovvoll, Assistant Director, Enforcement, Air Compliance Unit, telephone 566-3160. Any future correspondence should make reference to the State order number cited above.

State order No. 646A constitutes an amendment to State order No. 646. All the terms and conditions of State order No. 646 are hereby superseded by the terms and conditions of State order No. 646A set forth herein.

STANLEY J. PAC,
Commissioner, Department of Environmental Protection.

COMPLIANCE TIMETABLE

Prime Contact: George W. Krug. Title: President. Source Address: 237 Main Street, Norwalk, Conn. Telephone No.: 847-4512. Violation: 19-508-20(f)(4).

Major Source X. Minimum Source ——. Proc. ——. Other ——.

Source: H. D. Catty Corp., Premise No. 137-019. Order No. 646A. Date: March 22, 1978. N.V. No. 4064. Date: July 2, 1976. Equipment: Presses 49 and 47. Regulation No.: ——. Inspector and No.: Royce—No. 83.

Step and events leading to compliance	Timetable		Completed	Ver.	Wk.
1. Begin use of water-based ink on select products in the gift wrapping paper line as a means of interim emission reduction.	June 15, 1978	24			1 2 3 4 5
2. Continue reformulation and customer testing program on the water-based inks.	....do	24			6 7 8
3. Submit progress report which includes a monthly summary of ink/solvent consumption for the violating presses which will denote emissions during the reporting period.	....do	24			9 10 11 12 13
4. Submit progress report as outlined in step No. 3	July 14, 1978	28			14 15
5. Submit progress report as outlined in step No. 3	Aug. 15, 1978	33			16 17
6. Begin use of reformulated ink, or limit production so as to reduce organic emissions to no more than 800 lb. in any one day and 160 lb. in any one hour.	Sept. 15, 1978	37			18 19 20 21
7. Be in compliance with sec. 19-508-20 of the regulations	....do	37			22 23 24
8. Complete and submit registration forms for any involved equipment and control apparatus as they will be operated in compliance. If registration for any involved equipment has been completed previously, submit new registration using the same application number in box No. 1 except mark "amended" in the box. Identify the form with this State order number.	....do	37			25 26 27 28 29 30 31 32 33
9. Submit progress report; and continue submitting progress reports at precisely 1 month intervals if you are delinquent in complying with any steps of this order.	....do	37			34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51

[FR Doc. 78-18994 Filed 7-10-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[OPP—300014; FRL 924-7]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Prosposed rule.

SUMMARY: This notice proposes that certain additional inert ingedients (or occasionally active) ingredients in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by various firms. This amendment to the regulations would permit the use of the exempted ingredients in pesticide formulations.

DATE: Comments must be received on or before August 10, 1978. Requests to refer this proposal to an Advisory Committee must be received on or before August 10, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David Ritter, Toxicology Branch, Registration Division (WH-567), Office of Pesticide Programs, DPA, 202-426-2680.

SUPPLEMENTARY INFORMATION: At the request of several interested persons, the Administrator is proposing to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and includes, but is not limited to the following types of ingredients (except when they have pesticidal efficacy of their own):

Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

The amendment to 40 CFR Part 180 which is adding §180.1040 pertains to ethylene glycol, a specific inert ingredient which is associated with a restricted use pattern. The basis for that restriction is that there would be no reasonable expectation of residues in the raw agricultural commodity. This

Inert ingredient	Firm	Basis for approval
n-Alkyl(C_8–C_{18}) amine acetate	Armak Co., 8401 West 47th St., McCook, Ill. 60525.	Previously cleared under 21 CFR 172.710. 90-day dog and rat feeding studies.
N,N-Bis(2-hydroxyethyl) alkylamines	....do	Parent group previously cleared under 40 CFR 180.1001(d). 90-day dog and rat feeding studies.
N,N-Bis(2-*omega*-hydroxypolyoxyethylene) ethyl alkylamine.	....do	Parent compound previously cleared under 40 CFR 180.1001(d). No additional toxicologically significant exposure is expected from the proposed use.
Copper naphthenate	American Cyanamid Co., Princeton, N.J. 08540.	No reasonable expectation of residues on the raw agricultural commodities under applicable use restrictions.
Copper salts of neodecanoic acid and 2-ethyl hexanoic acid.	....do	Copper salts previously cleared under 21 CFR as food additives and 40 CFR 180.1001(b)(1). Copper is an essential nutrient. Tolerance of 1 ppm previously established for neodecanoic acid on cottonseed based on dog and rat studies ethyl hexanoic acid previously cleared under 21 CFR 172.515 as a synthetic flavoring and under 40 CFR 180.1001(d) as its alcohol form.
Corn syrup	Clinton Corn Processing Co., Clinton, Iowa 52732.	Human dietary constituent.
D and C green No. 6	Burroughs Wellcome Co., Research Triangle Park, Durham, N.C. 27709.	Previously cleared under 40 CFR 180.1001(d). No reasonable expectation of residues in eggs, meat, or milk.
D and C red No. 17	....do	Do.
D and C violet No. 2	....do	Do.
Dialkyl(C_8–C_{18}) dimethyl ammonium chloride, the dialkyl (C_8–C_{18}) derived from tallow.	Armak Co., 8401 West 47th St., McCook, Ill. 60525.	Previously cleared under 21 CFR 178.1010 in sanitizing solutions contacting food and 172.712 in sugar solids. Tallow fatty acids are natural body constituents.
Douglas-fir bark, ground	Weyerhouser Co., 505 North Pearl St., Centralia, Wash. 98531.	Indigestible and harmless naturally occurring substance.
FD and C blue No. 1	Burroughs Wellcome Co., Research Triangle Park, Durham, N.C. 27709.	Previously cleared under 40 CFR 180.1001(c). No reasonable expectation of residues in eggs, meat, or milk.
Glycerol mono-, di-. and triacetate	Armak Co., 8401 West 47th St., McCook, Ill. 60525.	Naturally occurring body substances.
α-Pinene	Hercules, Inc., Wilmington, Del. 19899.	GRAS under 21 CFR 172.515 as synthetic flavoring.
Polyoxyethylene (5) sorbitan monooleate	ICI United States, Inc., Wilmington, Del. 19897.	Previously cleared under 21 CFR as a direct human food additive
n-Propanol	....do	Previously cleared under 21 CFR 172.515 as a synthetic flavoring.
Styrene-maleic anhydride coplymer	Arco Chemical Co., 1500 Market St., Philadelphia, Pa. 19101.	Styrene component previously cleared under 21 CFR 172.515 as a synthetic flavoring agent. Long-term toxicity studies for maleic anhydride component which is cleared under 40 CFR 180.1001(d).
Tartrazine	Burroughs Wellcome Co., Research Triangle Park, Durham, N.C. 27709.	Previously cleared under 40 CFR 180.1001(d). No reasonable expectation of residues in eggs, meat, or milk.

inert cannot be used in any other manner except as specified in the regulation and as determined in a specific product registered by the Agency in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.).

Based on the above information, available data on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the amendments be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under FIFRA which contains any of the ingredients listed herein, may request, on or before August 10, 1978, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject matter and the OPP document control number "OPP-300014". All written comments filed in response to this notice will be available for public inspection in the office of the Federal Register section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 19, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

AUTHORITY: Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

It is proposed that Part 180, Subpart D, be amended by (1) deleting the items "*N,N*-Bis(2-[*omega*-hydroxypoly(oxyethylene)] ethyl) alkyl amines; * * *", "*N,N*-Bis[2-*omega*-hydroxypoly (oxyethylene)] ethyl alkyl amines: * * *", and "*N,N*-Bis(2-hydroxyethyl) alkylamine, where the alky groups (C_{14}-C_{18}) * * *" from the table in section 180. 1001(d); (2) alphabetically inserting new items in the tables in section 180.1001 (c), (d), and (e); and (3) adding the new section 180.1040, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Glycerol mono-, di-, and triacetate		Solvent, cosolvent.
n-Propanol		Solvent, cosolvent.

(d) * * *

Inert ingredients	Limits	Uses
n-Alkyl(C_8-C_{18})amine acetate		Surfactants, related adjuvants of surfactants.
N,N-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_8-C_{18}) are derived from coconut, cottonseed, soya, or tallow acids.		Surfactants, related adjuvants of surfactants.
N,N-Bis 2-(*omega*-hydroxypolyoxyethylene) ethyl alkylamine; the reaction product of 1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of poly(oxyethylene) alkylamine, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.		Do.
Copper naphthenate	Not more than 2.5 pct of formulation; application limited to before edible portions of plants begin to form.	Mercaptan scavenger in technical pesticide.
Copper salts of neodecanoic acid and 2-ethyl hexanoic acid	Not more than 1 pct of formulation; application limited to before edible portions of plants begin to form.	Do.
Diakyl(C_8-C_{18}) dimethyl ammonium chloride, (C_8-C_{18}) group from tallow		Surfactants, related adjuvants of surfactants.
Douglas-fir bark, ground		Solid diluent, carrier.

(d) * * *

Inert ingredients	Limits	Uses
* * * *	*	* *
α-Pinene	Not more than 2 pct of formulation by weight.	Stabilizer.
* * * *	*	* *
Polyoxyethylene (5) sorbitan monooleate		Surfactants, related adjuvants of surfactants.
* * * *	*	* *
Styrene-maleic anhydride copolymer	For preemergence use only	Suspending or dispersing agent.
* * * *	*	* *

(e) * * *

Inert ingredients	Limits	Uses
* * * *	*	* *
Corn syrup		Sticker, attractant.
* * * *	*	*
D and C green No. 6		Dye, coloring agent.
D and C red No. 17		Do.
D and C violet No. 2		Do.
* * * *	*	*
FD and C blue No. 1		Dye, coloring agent.
* * * *	*	*
α-Pinene	Not more than 2 pct of formulation by weight.	Stabilizer.
* * * *	*	*
Tartrazine		Dye, coloring agent.
* * * *	*	*

2. Part 180, Subpart D, is amended by adding the new § 180.1040 to read as follows:

§ 180.1040 Ethylene glycol; exemption from the requirement of a tolerance.

Ethylene glycol as a component of pesticide formulations is exempt from the requirement of a tolerance when used in foliar applications to peanut plants.

[FR Doc. 78-18812 Filed 7-10-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3200, 3220]

GEOTHERMAL RESOURCES LEASING; GENERAL COMPETITIVE LEASES

Miscellaneous Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of comment period extension.

SUMMARY: Proposed rulemaking regarding the competitive leasing of geothermal resources was published on pages 20826 and 20827 of the FEDERAL REGISTER of May 15, 1978. Public comments were invited through July 14, 1978. This notice extends that comment period to August 15, 1978, to provide for more complete analysis of the rulemaking by interested persons and agencies.

DATE: Comment by August 15, 1978.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240. Comments will be available for public review at the above address from 7:45 a.m. to 4:15 p.m. on regular work days.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton at the above address or telephone 202-343-8735.

ARNOLD E. PETTY,
Acting Associate Director.

JULY 6, 1978.

[FR Doc. 78-19048 Filed 7-10-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 191]

[Docket No. OPS-49; Notice 2]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Leak Reporting Requirements; Extension of Comments Period

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comment to the notice published June 5, 1978 (43 FR 24478), from July 10, 1978, until August 10, 1978.

DATE: Comments must be received on or before August 10, 1978.

ADDRESS: Comments should identify the docket and notice number and be

submitted in triplicate to the Docket Section, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590. Comments are available at MTB's Docket Room 6500.

FOR FURTHER INFORMATION CONTACT:

A. O. Garcia, 202-426-2082.

SUPPLEMENTARY INFORMATION: Requests for an extension of time were submitted by the American Gas Association (AGA), the American Society of Mechanical Engineers (ASME), and the New York Gas Group (NYGG). The AGA and the ASME requested that the comment period be extended to August 10, 1978, while the NYGG requested that the deadline for response be extended for a period of 60 days until September 10, 1978. The requests argued that a document of this importance and detail requires more than the 30 days allotted in Notice 1. It is also argued that preliminary study of the proposed revision of the various leak reporting forms introduces questions of substance going far beyond editorial or technical changes.

The MTB has decided that in light of the advance participation by interested groups in development of the revised forms, as discussed in the notice, a reasonable extension of the comment closing date is 30 days from the Existing (July 10, 1978) date and the comment period is hereby extended to August 10, 1978. Late filed comments will be considered as far as practicable. The MTB does not anticipate that this extension will result in any extension of the effective date of the proposed revised individual leak and annual report forms.

(Sec. 3, Pub. L. 90-481, 82 Stat. 721 (49 U.S.C. 1672); for offshore gathering lines, Sec. 105, Pub. L. 93-633, 88 Stat. 2157 (49 U.S.C. 1804); 49 CFR App. A of Part 1 and App. A of Part 102.)

Issued in Washington, D.C., on July 7, 1978.

CESAR DELEON,
Acting Director,
Office of Pipeline Safety Operations.

[FR Doc. 78-19186 Filed 7-7-78; 4:01 pm]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1057]

[Ex Parte No. MC-43 Sub-No. 7]

LEASE AND INTERCHANGE OF VEHICLES

Proposed final rules

AGENCY: Interstate Commerce Commission.

ACTION: Proposed final rules.

SUMMARY: By notice published in the FEDERAL REGISTER on November 23, 1977, 42 FR 59984, the Commission initiated this rulemaking proceeding by asking for comments relating to a number of problem areas between owner-operator lessors and authorized carrier lessees as a first step in revising its leasing regulations. The Commission is now proposing revised and rewritten leasing regulations based upon the comments received and upon the recently completed nationwide survey of owner-operators and analysis of permanent leases by the Commission's Bureau of Economics. This action is also based upon information received by the Commission's Small Business Assistant Office and information upon which this rulemaking proceeding was originally instituted. The leasing regulations are being modified to promote full disclosure between the carrier and owner-operator in the leasing contract, to promote the stability and economic welfare of the independent trucker segment of the motor carrier industry, and to eliminate or reduce opportunities for skimming and other illegal practices. The lease and interchange regulations have been rewritten so as to be simpler and easier to understand.

DATES: Written comments should be filed with the Commission by August 25, 1978.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, phone: 202-275-7581.

DECISION

By notice of proposed rulemaking published in the FEDERAL REGISTER on November 23, 1977,[1] this proceeding was instituted to revise and rewrite the Commission's leasing regulations in Title 49 of the Code of Federal Regulations, Chapter X, Part 1057—Lease and Interchange of Vehicles (49 CFR Part 1057). The proceeding was initiated on the basis of: (1) a Bureau of Operations (BOP) Report on Motor Carrier Leasing Practices, August 1977; (2) a Bureau of Economics (BOE) Preliminary Report on the Independent Trucker, November 1977; (3) evidence gathered during Congressional testimony before a special subcommittee of the House Committee on Small Business; and (4) testimony presented during Commission field hearings around the country. All indicate a number of problem areas between owner-operator lessors and authorized carrier lessees. This Commission decided to investigate further to determine whether revised leasing rules should be proposed.

This proceeding was initiated under the authority of 49 U.S.C. 304(e) and (f) and 5 U.S.C. 552, 553, and 559 by us at a General Session held on November 15, 1977. Some of the objectives of this proceeding are; (1) To simplify existing and new leasing regulations and to write them in understandable English; (2) to promote truth-in-leasing—a full disclosure between the carrier and the owner-operator of the elements, obligations, and benefits of leasing contracts signed by both parties; (3) to eliminate or reduce opportunities for skimming and other illegal or inequitable practices; and (4) to promote the stability and economic welfare of the independent trucker segment of the motor carrier industry.

The notice insituting this proceeding outlined several minimum standards which we viewed as the starting point for an overall revision of the leasing regulations. Interested parties were invited to comment on these areas as well as the full range of issues in leasing and interchange agreements.

The comment period was extended from its original 30 days to 60 days and ended on February 22, 1978. Because of the interest generated by this issue, comments received as late as February 28th were accepted and made part of the record in this proceeding. However, comments filed as late as March 28, 1978, were rejected.

Over 150 carriers, owner-operators, transportation consultants, government agencies, shippers, and unions responded to the notice, the overwhelming majority being either individual motor carriers or carrier conferences.

Our decisions in this proceeding are based (1) on the comments filed by the parties, (2) the studies and hearings mentioned above, (3) the information received by our Small Business Assistance Office (SBAO), and (4) the recently completed BOE nationwide survey of owner-operators and BOE analysis of permanent leases. These last two sources in number (4) are combined in one report and are being released simultaneously with this decision. Copies of the owner-operator survey and the lease analysis study can be obtained from the Publications room, Room 1333, Interstate Commerce Commission, Washington, D.C. 20423 or by contacting the Office of Communciations, telephone 202-275-7252.

A number of motor carrier parties filed motions for oral argument before this Commission. These motions are denied. We do not find, in light of all the pleadings, evidence, studies, and Commission and congressonal hearings on these issues, that oral argument would produce any further sub-

[1] 42 FR 59984-59985. Because the notice did not include formal rules, but rather discussed the proposals generally, this decision will necessarily be interim in nature.

stantive evidence at this stage in this proceeding.

The first part of this decision addresses the Commission's general jurisdiction to issue leasing rules and its specific jurisdiction to issue the proposed rules. The second part discusses, on an issue-by-issue basis, each of the ten areas contained in the notice. In each area, the recommended standard, the proposed rule, the contentions of the parties and the evidence used by the Commission in making its decision are presented.

In addition to the proposed rules, the Commission has revised, updated, reorganized, and rewritten existing rules. The third section of this decision discusses certain changes made in the revision and reorganization of the existing rules.

The last section contains a discussion of environmental and energy considerations.

The Appendix which is attached to this decision, contains the completely revised and reorganized Lease and Interchange Regulations. Additionally, for comparative purposes a copy of the existing rules follows the proposed rules.

In view of the importance of these matters to the Commission's regulatory function and to authorized carriers and their lessors, the proposed rules will be published in the FEDERAL REGISTER along with this summary. Complete copies of the decision can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. We invite all interested parties to file statements relating to the newly proposed rules and the revised and reorganized existing rules. Comments are due on or before August 25, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Stafford concurring in part and dissenting in part, Chairman O'Neal, with whom Commissioner Clapp concurs, dissenting in part, and Commissioner Murphy dissenting.

Dated: June 13, 1978, at Washington, D.C.

NANCY L. WILSON,
Acting Secretary.

Commissioner Stafford, Concurring in part, dissenting in part:

I fully support the interim decision insofar as it adopts the so-called truth-in-leasing principle. Unfortunately, some parts of the draft rules go beyond that concept, and to that extent I dissent.

Much of the jurisdictional discussion appearing under the heading Private Contractual Relationships is largely concerned with allocation of expenses between the lessor and the lessee, a concept which we have rejected. This part of the discussion is gratuitous and unnecessary for a full explication of the law here, and should have been deleted from the decision.

Rule 1057.12(g) requires the authorized carrier to pay the lessor within 10 days after submission of the necessary delivery documents. In my view, this time deadline is unrealistically short for many businesses. This argument about the practicality of the proposal is raised by almost every carrier. I see no reason why we should refuse to give it credence. The proposal had little support from the owner-operators. It will be difficult to enforce the workable provisions of these leasing regulations; but a rule that is impossible to comply with will breed contempt not only for this section but for other parts of the rule as well. It should be noted that lessors have no obligation as to how soon they must present their documents. I would extend this time at least to 15 days and possibly longer.

Proposed rule 1057.12(1)(5) requires the carrier to pay interest on the escrow funds held by it. There is little support for the payment of interest on escrow funds, and there is no explanation as to why it is being required, other than the statement that "It would not be unduly burdensome to carriers." This action is inconsistent with our policy of not allocating particular expenses between the lessor and the lessee.

Proposed rule 1057.12(j) requires the lease to indicate that the lessor is not required to purchase or rent products, equipment or services from the authorized carrier. I would not impose this section. There is no support for this requirement nor, as the report admits, is there any evidence of abuses by the industry. The rule would seem to be so easy to avoid that it can serve no useful purpose.

Chairman O'Neal, with whom Commissioner Clapp concurs, dissenting in part:

I agree with the majority that the proposed truth-in-leasing rules are helpful in promoting a fair relationship between the regulated carrier and the owner-operator.

In any business relationship having all the relevant issues identified is useful only to those who have the expertise and leverage to make sure their interests are protected. Information has no meaning if it is not useable. Many owner-operators should benefit from the truth-in-leasing approach. At least those that are conscientious will have a better idea which carriers they should deal with and which carriers to avoid. My concern is that because they like to eat, owner-operators will continue to find it necessary to enter into contracts with carriers they would like to avoid. Or they may find after entering an agreement that promises are not kept and conditions are not met. What can the owner-operator do about that situation? What about the right to contract? The difficulty is that one owner-operator by himself will have very little chance of bargaining any changes in any contract. His option will be to take it or leave it. As long as the owner-operator maintains his independent, non-employee status, he is prevented by law from joining together with other owner-operators to bargain collectively. He must either give up his independence and join the union or he must move on.

I do not think the Interstate Commerce Commission should act as the collective bargaining agent for owner-operators.

But owner-operators do play a crucial role in meeting the Nation's transportation needs. As an agency charged with responsibility for preserving a measure of stability and dependability in surface transportation, the ICC needs to be concerned about the degree to which some carriers appear to be shifting the risks of business to the owner-operator. As the regulated carrier's risks become less, the questions about the role of the government-issued certificate loom larger. If, indeed, the carrier has no responsibility to pay fuel costs, fuel taxes, special permits, tolls, ferries, license plate fees, detention, and accessorial charges, then its risks and costs are substantially reduced and the carrier approaches that point where it becomes indistinguishable from a mere broker.

I fear that, wholly consistent with the truth-in-leasing rules, some carriers will continue to pass the bulk of their transportation burdens on to the independent driver. Several independents will continue to pay the price of the additional risks without having commensurate access to the returns of the business—the business of which they are the essential part. The independent will suffer, as will the stability of the transport system.

I therefore would adopt rules which do allocate at least some of the responsibility for the traditional transportation expenses to the regulated carrier—the carrier who presumably acquired a certificate of public convenience and necessity in order to perform a transportation service for the public.

Fuel costs and taxes: At a minimum, the Commission should develop a workable formula to assign at least a portion of increased fuel expenses and taxes to the carriers. Because of the precipitous fuel price increases of 1973, the Commission established the present fuel pass-through provision, found at 49 CFR 1057.4(a)(5). The present rule requires authorized carriers to adjust compensation paid to les-

sors by an amount equal to fuel price increases since May 1973. The purpose of this rule was to ensure that the regulated carrier would seek an increase in rates to offset the increase in fuel costs being borne by the owner-operator and, most importantly, that the money from the increased rates would be passed through to the owner-operator.

The Bureau of Economics lease analysis shows that there is widespread noncompliance with the present fuel pass-through regulation. That may be due to the complexity of the formula involved. In any event, the fact that carriers have not complied with the fuel pass-through provision indicates that the economic effect of four years of rising fuel prices has not been mitigated for owner-operators.

It is true that the carriers may have some difficulties in supervising all the activities of their independent drivers. It may also be true that the carriers could offset these expenses by reducing the payment in the lease. But fuel costs are volatile, and unless the carriers bear at least a percentage of these cost increases, they will have less motivation to make rate adjustments to offset increased fuel costs. Those increases would be borne entirely by the independent.

Rather than amend the present formula, the majority would simply abolish it. In my view that just isn't the answer. The purpose of the rule is worthwhile. If there are problems in its implementation, it should be modified. Repealing the rule for administrative convenience does not strike me as a responsible act of government. Abolishing the present formula raises the further question of what should be done about the rate increases now in the rate base that were justified by the formula.

Special permits, tolls and ferries: The majority would have these expenses governed by the truth-in-leasing standard. In my view, they should be borne by the carrier whenever they are incurred through operations performed at the carrier's direction.

Special permits, which are required because of the type of authority the carrier possesses and the type of operation it conducts, should always be the responsibility of the carrier. The carrier has complete control over both the nature of the load and the frequency with which such permits are issued. It is therefore the appropriate party to bear these costs.

License plates fees: One would think that ordinary considerations of fairness would dictate that the carrier should be required to credit the independent for any unused portion of the plates, licenses or permits, less reasonable administrative costs. An operator may pay substantial sums to several states for the necessary permits or license plates. If the lease is terminated prematurely (e.g. if the independent exercises one of the few options left to him and quits), the unexpired portion of the plate or permit can be reused by the carrier or sold to another operator. Yet, the majority has determined that no such credit should be required.

Detention and accessorial charges: Detention and accessorial charges should be passed through to the driver on the basis of billable amounts in proportion to the costs and burden borne by the operator.

The Bureau of Economics survey indicates that carriers rarely collect or pass through to the independent detention on owner-operated trucks. That is so even though carries are required by section 222(c) of the Act to collect applicable detention charges or face civil or criminal prosecution. So failure to collect detention charges at any time is unlawful. It is also unfair where an independent is involved, since the driver is the one who bears the burden of the detention or extra work through lost time and loss of the equipment's use.

A direct economic incentive, such as a required pass-through, appears to be the best way to ensure that such charges are collected. Yet, the majority would again rely solely on truth-in-leasing.

Summary: In short, I am in full agreement with the majority's report, as far as it goes. The problem is that it does not go far enough. The owner-operator has become an integral part of our transportation system. His economic stability is crucial to our Nation's economic welfare. We should take affirmative action to ensure that stability.

Commissioner Murphy, dissenting:

The majority proposes to extensively expand the present regulations governing the leasing of equipment in an effort to promote a so-called "truth in leasing" principle. This theoretical concept while very appealing has little relevance to the Commission's jurisdiction, to industry practices, or to the real world.

Turning first to the Commission's jurisdiction, it is apparent from the tenuous nature of the subsidiary findings supporting the ultimate conclusions as to the Commission's jurisdiction to promulgate these regulations, that the majority's decision is built upon a foundation of quicksand. Essentially, the attempt to promulgate detailed regulations herein is literally a "bootstrap" approach. I have noted, with apprehension, on several prior occasions the attempted intrusion by the Commission into the sphere of private, contractual arrangements between the carrier and the owner-operator.[1] The proposal today is actually but a new, small step towards the ultimate intrusion, by an unwanted third party, into those private contractual agreements in the name of "truth in leasing" or some other similar slogan. I cannot join in that approach.

Today's decision refers to several reports, investigations, or complaint calendars. The majority's decision to a substantial extent, rests on a lease analysis study by the Bureau of Economics. Reliance on that study is inappropriate for a number of reasons.

Two questions must be asked and answered at the outset:

(1) Is the study valid, i.e., does it prove what it was intended to do? and, if so,

(2) Is it reliable, i.e., will it time-and-time-again produce similar results?

The principal defects are readily apparent. The study's universe has been carefully selected, thus raising serious questions of bias.[2] Moreover, the selection and use of data supplied by owner-operator repliants, but without verification, appears to add to the problem area. The apparent approach of the study is to the effect that all regulated carriers are ready to take advantage of the owner-operators, while the latter are without blemish. Neither assumption should be accepted without a careful, evenhanded review. Nevertheless, since the Commission has not actually adopted the lease analysis study,[3] which study will first be subject to public comment, further analysis thereof must be deferred until those comments are received and reviewed.

The majority indicates that the regulations are designed to ensure "that motor carriers measure up to their statutory responsibilities". But no similar, evenhanded requirement is imposed on the owner-operator. Moreover, while the majority seemingly admits that practices such as "skimming" are not a significant problem area, nevertheless, it would promulgate regulations irrespective of a need therefor and with little thought of the additional burdens to be imposed on the carrier and the owner-operator. I am unalterably opposed to unnecessary regulations.

With respect to license plate fee proration, it should be noted that inclusion of data from Hawaii[4] or from

[1] Lease and Interchange of Vehicles—Trip Leasing, 123 MCC 574, 597-599.

[2] For example, it appears that class III carriers were deliberately omitted and the procedures utilized consist of random, or judgment sampling, or both. The adjusting, indexing, or weighting utilized raises other problems.

[3] Simultaneous release of the Bureau's study and reliance to some extent on that study as a basis for a decision herein does raise serious questions of due process.

[4] Motor operations in Hawaii are largely exempt from economic regulation. See Ex Parte No. MC 59, Motor Carrier Operations

Footnotes continued on next page

States with cities having extremely broad commercial zones[5] may well cast doubt on the conclusions reached by the majority on this issue.

The payment of interest on escrow funds is a matter of first importance, and it is appropriate to raise specific questions regarding the Commission's jurisdiction to order the payment of interest. It is clear that the Commission can prescribe credit regulations governing a transportation service[6] and may award interest in some instances.[7] But the attempt to prescribe regulations dealing with interest, a subject primarily of a banking nature, may well lie beyond its jurisdiction. I see no necessity for intrusion by this Commission into that area.

Many parties request the opportunity for oral argument. In light of the many divisions of opinion, the complexity of the issues, the serious charges raised,[8] and the major impact which the proposed regulations would have on the Commission, carriers, owner-operators, the shipping public, and others, oral argument is an essential first step. I would grant the request for oral argument.

To the extent that the majority's decision fails to conform to the views expressed above, I respectfully dissent therefrom.

Therefore, revised and reorganized part 1057 is set out as follows:

PART 1057—LEASE AND INTERCHANGE VEHICLES

Subpart A—General Applicability and Definitions

Subpart B—Leasing Regulations

Subpart C—Exemptions From the Leasing Regulations

Subpart D—Interchange Regulations

Subpart E—Private Carriers and Shippers

AUTHORITY: Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304.

Subpart A—General Applicability and Definitions

§ 1057.1 Applicability.

The regulations in this part apply to the following actions by motor carriers holding permanent or temporary operating authority from the Commission to transport property:

(a) The leasing of equipment with which to perform transportation regulated by the Commission.

(b) The leasing of equipment to motor private carriers or shippers.

(c) The interchange of equipment between motor common carriers in the performance of transportation regulated by the Commission.

§ 1057.2 Definitions.

(a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of sections 206, 207, 209, or 210a of the Interstate Commerce Act, 49 U.S.C. 306, 307, 309, or 310a.

(b) *Equipment.* A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange.* The receipt of equipment by one motor common carrier of property from another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.

(d) *Owner.* A person: (1) To whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment for a period longer than 30 days, or (3) who has lawful possession of equipment, registered and licensed in any State in the name of that person.

(e) *Lease.* A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property, in exchange for compensaton.

(f) *Permanent lease.* A lease in which the authorized carrier acquires the use of equipment, with or without driver, from an owner for a period of 30 days or more.

(g) *Trip lease.* A lease in which an authorized carrier acquires the use of equipment, with or without driver, from an owner for a period of time less than 30 days.

(h) *Lessor.* In a lease, the party granting the use of equipment, with or without driver, to another.

(i) *Lessee.* In a lease, the party acquiring the use of equipment, with or without driver, from another.

(j) *Sublease.* A written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

(k) *Addendum.* A supplement to an existing lease which is not effective until signed by the lessor and lessee.

(l) *Private carrier.* A person, other than a motor carrier, transporting property by motor vehicle in interstate or foreign commerce when: (1) The person is the owner, lessee, or bailee of the property being transported; and (2) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(m) *Shipper.* A person who sends or receives property which is transported in interstate or foreign commerce.

(n) *Consignee.* A person to whom property is shipped.

(o) *Consignor.* A person who sends property which is transported in interstate or foreign commerce.

(p) *Escrow fund.* Money deposited by the lessor to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and State permit costs, and for any other purpose mutually agreed upon by the lessor and lessee.

(q) *Detention.* The holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment, under circumstances not attributable to the performance of the carrier.

Subpart B—Leasing Regulations

§ 1057.11 General leasing requirements.

Other than through the interchange of equipment as set forth in § 1057.31, the authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

(a) *Lease.* There shall be a written lease granting the use of the equipment and meeting the requirements contained in section 1057.12.

(b) *Receipts for equipment.* Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given as follows:

(1) When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt.

(2) When possession of the equipment by the authorized carrier ends, it shall obtain a receipt from the owner.

(3) Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under this subsection.

(c) *Identification of equipment.* The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service as follows:

Footnotes continued from last page

in the State of Hawai, 84 MCC 5, as modified, 115 MCC 228.

[5] TICommerical Zones and Terminal Areas, 128 MCC 422.

[6] *Regulations for Payment of Rates and Charges*, 350 I.C.C. 527 and prior decisions.

[7] 49 U.S.C. 15(8)(e).

[8] At a minimum, the carriers should be given the opportunity to rebut the serious charges made against them by unnamed, unidentified persons.

(1) During the period of the lease, the carrier shall identify the equipment in accordance with the Commission's requirements in part 1058 of this chapter (identification of vehicles). Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

(2) Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative.

(d) *Records of equipment.* The authorized carrier using equipment leased under this section shall keep records of the equipment as follows:

(1) If the equipment is being leased for periods of less than 30 days, the authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly indicating that the transportation is under its responsibility. These papers shall be preserved by the authorized carrier as part of its transportaion records. Trip leases which contain the information required by the provisions in this paragraph may be used and retained instead of such documents or papers.

(2) If the equipment is being leased for periods of 30 days or more, the authorized carrier shall comply with the provisions of paragraph (1) of this subsection, but it may keep the required information at its terminal or office as part of its records rather than with the leased equipment.

§ 1057.12 Written lease requirements.

The written lease required under § 1057.11(a) shall contain the following provisions:

(a) *Parties.* The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

(b) *Duration to be specific.* The lease shall specify the time and date or the circumstances on which the lease begins and ends. These times or circumstances shall coincide with the times for the giving of receipts required by § 1057.11(b).

(c) *Minimum duration of 30 days when operated by owner.* The period for which the lease applies shall be for 30 days or more when the equipment is to be operated for the authorized carrier by the owner or an employee of the owner.

(b) *Exclusive possession and responsibilities.* The lease shall provide that the authorized carrier, lessee, shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease.

(e) *Compensation to be specified.* The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. Such lease or addendum shall be delivered to the lessor prior to the commencement of any trip in the service of the authorized carrier. An authorized representative of the lessor may accept these documents. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount.

(f) *Items specified in lease.* The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, taxes, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items.

(g) *Payment period.* The lease shall specify that payment to the lessor under permanent or trip lease to the authorized carrier shall be made within 10 days after submission of the necessary delivery documents concerning a trip in the service of the authorized carrier. The lease shall clearly specify all events, conditions, and requirements that are necessary before the lessor can receive payment, including a statement of the delivery documents and other paperwork that must be submitted.

(h) *Copies of freight bill.* Subject to the right of the authorized carrier to delete the names of shippers and consignees shown on the freight bill, the lease shall specify that the authorized carrier shall provide a copy of the rated freight bill at the time of settlement to those lessors whose revenue is based on a percentage of the gross revenue for a shipment. The lease shall clearly specify the right of the lessor to examine copies of the carrier's tariff.

(i) *Charge-back items.* The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at time of payment or settlement.

(j) *Products, equipment, or services from authorized carrier.* The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments.

(k) *Insurance.* (1) The lease shall clearly specify who is responsible for providing the various types of insurance coverage, such as cargo, bobtail, and public liability and property damage coverage. If the authorized carrier provides any or all parts of the above coverage and makes a charge back to the lessor for such coverage, the lease shall specify the amount charged-back to the lessor and shall also specify the full cost of the policy to the authorized carrier for the current year of operations. If the actual cost of insurance for the insurable year is not available when the lease is executed, the lease shall specify that the authorized carrier will supply this information to the lessor as soon as it is available. This information shall be included in an addendum which shall be attached to the leasing agreement.

(2) If the lessor purchases any type of insurance coverage from or through the authorized carrier, the authorized carrier shall provide the lessor with a copy of the insurance policy.

(3) The lease shall specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation or money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made.

(4) The lease shall specify the legal obligation of the authorized carrier to maintain insurance coverage under section 215 of the Interstate Commerce Act.

(l) *Escrow funds.* If escrow funds are required, the lease shall specify:

(1) The amount of any escrow fund or performance bond required to be paid by the lessor to the authorized carrier or to a third party.

(2) The specific items to which the escrow fund can be applied.

(3) That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall provide an accounting to the lessor of any transactions involving such fund. The carrier shall perform this accounting in one of the following ways:

(i) By clearly indicating in individual settlement sheets the amount and description of any deduction or addition made to the escrow fund; or

(ii) By providing a separate accounting to the lessor of any transactions involving the escrow fund. This separate accounting shall be done on a monthly basis.

(4) The right of the lessor to demand to have an accounting for transactions involving the escrow fund at any time.

(5) That while the escrow fund is under the control of the carrier, the carrier shall pay interest on the average daily balance in the escrow fund on a quarterly basis. The level of interest shall be no less than that paid by commercial banks in the city of the carrier's legal domicile.

(6) The conditions the lessor must fulfill upon termination. The lease shall further specify that when the named conditions are fulfilled, the escrow fund shall be returned. In no event shall the escrow fund be returned later than 45 days from the date of termination. At the time of return of the escrow fund, the authorized carrier may deduct, if appropriate, monies for those obligations incurred by the lessor which have been previously specified in the lease.

(m) *Copies of the lease.* An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease on the equipment during the period of the lease unless a statement as provided for in § 1057.11(c)(2) is carried on the equipment instead. The owner of the equipment shall keep the other copy of the lease.

Subpart C—Exemptions from the Leasing Regulations

§ 1057.21 General exemptions.

Except for § 1057.11(c) which requires the identification of equipment, the leasing regulations in this part shall not apply to:

(a) Equipment used in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations and on railroad billing.

(b) Equipment used in transportation performed exclusively within any commercial zone as defined by the Commission.

(c) Equipment leased without drivers from a person who is principally engaged in such a business.

(d) Any type of trailer not drawn by a power unit leased from the same lessor.

§ 1057.22 Exemption for trip leasing between authorized carriers.

Regardless of the leasing regulations set forth in this part, an authorized carrier may lease equipment to or from another authorized carrier under the following conditions:

(a) The identification of equipment requirements in § 1057.11(c) must be complied with.

(b) The lessor must own the equipment or hold it under a lease of 30 days or more.

(c) The lessor must regularly use the equipment in the service it is authorized by the Commission to perform.

(d) The equipment must be leased for transportation in the direction of a point which the lessor is authorized to serve.

(e) There must be a written agreement between the authorized carriers concerning the equipment as follows:

(1) It must be signed by the parties or their authorized representatives.

(2) It must provide that control and responsibility for the operation of the equipment shall be that of the lessee from the time possession is taken by the lessee and the receipt required under § 1057.11(b) is given to the lessor until:

(i) Possession of the equipment is returned to the lessor and the receipt required under § 1057.11(b) is received by the authorized carrier; or

(ii) Possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment.

(3) A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

§ 1057.23 Exemption for trip leasing specialized equipment.

The requirement in § 1057.12(c), concerning the minimum duration of a lease for equipment with driver, does not apply where:

(a) The equipment is owned by an authorized automobile carrier and is leased or subleased to another authorized automobile carrier for use in transporting motor vehicles.

(b) The equipment is owned by an authorized tank truck carrier and is leased or subleased to another authorized tank truck carrier for use in transporting commodities in bulk.

(c) The equipment is dump equipment leased or subleased for use in transporting salt and calcium chloride, in bulk, for ice and snow control purposes during the period from November 1 through April 30 of each year.

§ 1057.24 Exemption for trip leasing equipment used in agricultural operations.

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where:

(a) The equipment is leased by the authorized carrier for use in a single movement or in one of more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based, and the equipment is that of one of the following:

(1) A farmer or a cooperative association or federation of cooperative associations under section 203(b) (4a) or (5) of the Interstate Commerce Act.

(2) A private carrier and the equipment is used regularly in the transportation of (i) Property referred to in section 203(b)(6) of the act, or (ii) perishable products manufactured from perishable property referred to in that section.,

(b) The equipment has completed a movement covered by section 203(b)(6) of the act and is leased to the authorized carrier for use next in one of the following:

(1) A loaded movement in any direction.

(2) One or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based.

(3) A movement described in (1) of this subsection and then a movement described in (2) of this subsection.

§ 1057.25 Recordkeeping for agricultural exemption.

To qualify for the exemption in section 1057.24, prior to leasing the equipment, the authorized carrier shall receive and retain a statement signed by the owner, or authorized representative of the owner, which includes:

(1) Authorization for the driver to lease the equipment for such movements.

(2) Certification that the equipment meets the qualifications in (a) or (b) of § 1057.24.

(3) Specification of the origin, destination, and the time of beginning and ending of the last movement which brought the equipment within the exemption of section 1057.24.

§ 1057.26 Exemption from requirement of exclusive possession and control.

The requirements in § 1057.12(d) concerning exclusive possession and

control of leased equipment by the authorized carrier lessee do not apply where:

(a) The parties provide in the lease that the authorized carrier lessee be considered the owner of the equipment for the purpose of subleasing the equipment to other authorized carriers under the regulations in this part during the length of the lease.

(b) An authorized carrier of household goods has leased equipment for the transportation of household goods, as defined by the Commission, and the equipment is not being operated by or for the authorized carrier lessee at that time.

Subpart D—Interchange Regulations

§ 1057.31 Interchange of equipment.

Authorized common carriers may interchange equipment under the following conditions:

(a) *Interchange agreement.* There shall be a written contract, lease, or other arrangement providing for the interchange and specifically describing the equipment to be interchanged. This written agreement shall set forth the specific points of interchange, how the equipment is to be used, and the compensation for such use. The interchange agreement shall be signed by the parties or by their authorized representatives.

(b) *Operating authority.* The carriers participating in the interchange shall hold certificates of public convenience and necessity which authorize the transportation of the commodities at the point where the physical exchange occurs.

(c) *Through bills of lading.* The traffic transported in interchange service must move on through bills of lading issued by the originating carrier. The rates charged and the revenues collected must be accounted for in the same manner as if there had been no interchange. Charges for the use of the interchanged equipment shall be kept separate from divisions of the joint rates or the proportions of such rates accruing to the carriers by the application of local or proportional rates.

(d) *Identification of equipment.* The authorized common carrier shall identify equipment operated by it in interchange service as follows:

(1) The authorized common carrier shall identify power units in accordance with the Commission's requirements in part 1058 of this chapter (identification of vehicles). Before giving up possession of the equipment, the carrier shall remove all identification showing it as the operating carrier.

(2) Unless a copy of the interchange agreement is carried on the equipment, the authorized common carrier shall carry a statement with each vehicle during interchange service certifying that it is operating the equipment. The statement shall also identify the equipment by company or State registration number and shall show the specific point of interchange, the date and time it assumes responsibility for the equipment, and the use to be made of the equipment. This statement shall be signed by the parties to the interchange agreement or their authorized representatives. The requirements of this paragraph shall not apply where the equipment to be operated in interchange service consists only of trailers or semitrailers.

(e) *Connecting carriers considered as owner.* An authorized carrier receiving equipment in connection with a through movement shall be considered the owner of the equipment for the purpose of leasing the equipment to other authorized carriers in furtherance of the movement to destination or the return of the equipment after the movement is completed.

Subpart E—Private Carriers and Shippers

§ 1057.41 Rental of equipment to private carriers and shippers.

Authorized carriers may rent equipment to private carriers and shippers only as follows:

(a) Authorized carriers may rent equipment, with or without drivers, to private carriers or shippers where the vehicles are to be used for transportation which is exempt under section 203(b) (7) or (8) of the Interstate Commerce Act.

(b) Authorized carriers may rent equipment with drivers to private carriers or shippers where their operating authorities specifically allow such service.

(c) Authorized carriers may rent equipment without drivers to private carriers or shippers where the authorized carriers are transporting property wholly for and on the billing of railroads.

(d) Authorized contract carriers may rent equipment without drivers to private carriers and shippers where approval of the rental contacts has been obtained from the Commission.

[FR Doc.-78-18998 Filed 7-10-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 652]

SURF CLAM AND OCEAN QUAHOG FISHERIES

Proposed Closure of Surf Clam Beds

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announcement of public hearing.

SUMMARY: A hearing will be held by the Northeast Region, NMFS, in conjunction with the Mid-Atlantic Fishery Management Council to solicit information and response on the proposed closure to surf clam fishing of an area of surf clam beds in the conservation zone off Atlantic City, N.J.

DATE: The hearing will be held on July 27, 1978. See supplementary information below.

ADDRESS: The hearing will be held at the Stockton State College in Pomona, N.J. See supplementary information below.

FOR FURTHER INFORMATION CONTACT:

Mr. William Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone: 617-281-3600.

SUPPLEMENTARY INFORMATION: Notice is hereby given that there will be a public hearing to receive testimony concerning the proposed closure to surf clam fishing of an area of surf clam beds in the fishery conservation zone off Atlantic City, N.J. The proposed closed area is approximately 3½ miles wide by 10 miles long, and is identified as lying between 3 and 6½ miles offshore, between Loran lines 3790 and 3890. The hearing will aid in obtaining information on the social, economic, and biological impact of a possible closure in that area. The hearing on this proposal will be held starting at 8 p.m. in room CC103 of the Stockton State College, Pomona, N.J.

Issued at Washington, D.C., and dated July 6, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-19039 Filed 7-10-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

MONTHLY SALES LIST (PERIOD JUNE 1, 1978 THROUGH MAY 31, 1979)

CCC-Owned Commodities Notice to Buyers

This Monthly Sales List for the period June 1, 1978, through May 31, 1979, hereinafter referred to as "the period", is issued pursuant to the policy of the Commodity Credit Corporation issued on October 12, 1954, and published in the FEDERAL REGISTER of October 16, 1954 (19 FR 6669), and amended on January 31, 1970 (35 FR 1273), and on June 3, 1970 (35 FR 8537). This Monthly Sales List is effective with respect to Commodity Credit Corporation (CCC) commodity holdings which are available for sale, beginning at 2:30 p.m., e.d.t. on May 31, 1978. Sales price transitions between successive months will be made at 2:30 p.m. (Washington, D.C.), on the last CCC business day of each month unless otherwise specified.

This Monthly Sales List reflects sales policy for the beginning month of the period covered by the list. This Monthly Sales List also projects the beginning sales policy as far as possible into the balance of the period by setting forth prices that will prevail in subsequent months if the beginning sales policy remains unchanged. The inclusion of projected prices for subsequent months is intended to minimize the repetitive publication of price information and shall not be construed as an annual sales policy commitment by CCC. This Monthly Sales List will be amended in the FEDERAL REGISTER from time to time during the period to reflect intra-month and end-of-month changes.

This Monthly Sales List sets forth the commodities available for sale, information concerning financing, and the pricing basis on which sales will be made, and sources from which further information concerning matters described in this paragraph may be obtained. This list is issued for the purpose of public information and does not constitute an offer to sell by CCC or an invitation for offers to purchase from CCC.

1. General

(a) CCC will entertain offers from responsible buyers for the purchase of any commodity in this Monthly Sales List. Offers accepted by CCC will be subject to the terms and conditions prescribed by CCC. With certain exceptions such terms and conditions appear in published regulations and in pamphlets which are designated as announcements. The identity of such announcements are with certain exceptions, stated in this Monthly Sales List. The announcements may be obtained from the sources described herein.

(b) CCC reserves the right to refuse to consider an offer if CCC does not have adequate information of financial responsibility of the offeror to meet contract obligations of the type contemplated under the prospective contract. If a prospective offeror is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named to receive offers in the appropriate announcement or invitation prior to making an offer or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only on submission by offeror of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offeror will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of a performance bond or other security acceptable to CCC. Interest at 10 percent will be charged for delinquent payments on all sales.

(c) The pricing provisions in the CCC Monthly Sales List in effect at time of sale shall be applicable to sales of all commodities. Grain sales are made on-track with immediate delivery; in-store for delivery as soon as possible; or FOB origin for delivery as soon as possible subject to availability of transportation.

In the case of sales FOB buyer's conveyance, carrying charges for account of the buyer will accrue as specified in the contract. Sales for delivery other than immediate or as soon as possible will be made only pursuant to terms specified in special provisions.

(d) Financial coverage for commodities purchased shall be furnished before delivery, in cash or by irrevocable letter of credit.

(e) CCC reserves the right to determine the class, grade, quality, and available quantity of commodities listed for sale.

(f) Nonstorable commodities will be sold at not less than market price.

2. Export Commodities

On sales for export, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal or resident agent upon which service of judicial process may be had.

Prospective buyers for export should note that, generally, sales to U.S. Government agencies, with minor exceptions, will constitute sales for domestic unrestricted use of the commodity.

CCC reserves the right, before making any sales, to define or limit export areas.

Exports to certain countries are regulated by the U.S. Department of Commerce. These restrictions also apply to any commodities purchased from CCC whether sold for restricted or unrestricted use. Countries and commodities are specifically listed in the U.S. Department of Commerce export control regulations. Additional information is available from the Bureau of International Commerce or from the field offices of the Department of Commerce.

In the case of export sales, the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchase from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Although a commodity may not be specifically listed for export sale, CCC reserves the right to make emergency sales of its stocks for export if unexpected trade opportunities develop or when the flow of commodities to ports is disrupted or impeded and the maintenance of U.S. exports is temporarily jeopardized. Specific offering terms, including the applicable export announcement to be used, will be provided interested parties through special sales announcements and by amendments to the CCC monthy sales list.

3. Odd Lot Quantities

Disposals and other handling of inventory items often result in small

quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and, therefore, generally they do not appear in the monthy sales list.

4. Definitions

The following terms as used in this monthy sales list shall have the following meanings unless otherwise specifically stated:

(*a*) "Market price" means market price as determined by CCC.

(*b*) "Transit value" means transit value as determined by CCC.

(*c*) "Sales for unrestricted use" and "unrestricted use sales" means sales which permit either domestic or export use.

(*d*) "Sales for export" and "export sales" mean sales which require export of a commodity.

(*e*) "Designated terminals" means the terminals which are listed in grain price support regulations.

(*f*) "Export market price" means a price as determined by CCC and generally reflects the price at which commodities are being sold for export.

5-24 [Reserved]

25. Rice, Rough—Unrestricted Use Sales (f.o.b. Warehouse)

The minimum price is the market price but not less than the formula price. Basis of sale is f.o.b. warehouse as is, or at buyer's option, basis outturn weights and grades. The formula price is 155 percent of the 1977 loan rate plus the applicable monthly markup shown in this section.

MONTHLY MARKUPS—DOLLARS PER HUNDREDWEIGHT

1977:	
June	.65
July	.65

26. [Reserved]

27. Nonfat Dry Milk—Unrestricted Use Sales (Instore-Carlot Quantities)

Market price, but not less than 78 cents per pound for U.S. Extra Grade spray process in 50 pound bags. Sales are made under Announcement PV-DS-2. In addition, from time to time CCC will issue an invitation for competitive offers under Announcement PV-DS-1 to purchase from CCC nonfat dry milk which is 20 months old or older and/or has a moisture content of 4.2 percent but not more than 5.0 percent.

28. Butter—Unrestricted Use Sales (Instore-Carlot Quantities)

Market price, but not less than 11 cents per pound over CCC's purchase price at each location for U.S. Grade A or higher in 60 to 68-pound blocks. Sales are made under Announcement PV-DS-2.

29. Cheddar Cheese—Unrestricted Use Sales (Instore-Carlot Quantities)

Market price, but not less than $1.14 per pound (standard moisture basis) for U.S. Grade A or higher in 40 pound blocks. Sales are made under Announcement PV-DS-2.

30-38 [Reserved]

USDA Agricultural Stabilization and Conservation Service Officers: Feedgrains, wheat, rye, and oilseeds are sold by the Commodity Office and Branch offices as listed below. Cotton, rice, dry edible beans, dairy products, honey, and tung oil are sold only by the Commodity Office. Peanuts are sold by the Producer Associations Division.

Sales Office: Addresses, telephone and sales areas.

Kansas City ASCS Commodity Office—2400 West 75th Street (P.O. Box 8377) Shawnee Mission, Kans. 66208: Telephone: 816-926-6421 (Grain), 6140 (Dairy), 6425 (Rice).

Domestic and export Sales—Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia, and Wyoming.

Branch Office—Houston ASCS Branch Office, 2550 North Loop West, Suite 525, Houston, Tex. 77018, P.O. Box 94175, telephone: 713-226-5871.

Domestic and Export Sales—Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma, and Texas.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn. 55415, telephone: 612-725-2051

Domestic and Export Sales—Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Branch Office—Portland ASCS Branch Office, Room 832, Federal Building, 1220 SW. Third Avenue, Portland, Oreg. 97204, telephone: 503-221-2715.

Domestic and Export Sales—California, Idaho, Nevada, Oregon, Utah, and Washington.

Producer Association Division—P.O. Box 2415, Washington, D.C., 20013, telephone: 202-447-4318.

Peanut Association Addresses:

GFA Peanut Association, telephone: 912-336-5241 Camilla, Ga. 31730.

Peanut Growers Cooperative Marketing Assn., telephone: 804-562-4103, Franklin, Va. 23851.

Southwestern Peanut Growers Association, telephone: 817-734-2222, Gorman, Tex. 76454.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Signed at Washington, D.C. on July 3, 1978.

GRANT BUNTROCK,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-19098 Filed 7-10-78; 8:45 am]

[3410-11]

Forest Service

FLATHEAD NATIONAL FOREST TIMBER MANAGEMENT PLAN, KALISPELL, MONT.

Intent to Prepare an Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement for the proposed Flathead National Forest Timber Management Plan.

This timber management plan is the result of a periodic re-inventory of the timber resource and the assessment of land uses as described in Land Management Plans. This plan will supersede a previous Timber Management Plan dated July 1, 1969, and an Interim Timber Management Plan dated May 30, 1974.

Affected publics and groups have been informed and involved in this timber management planning process since its conception in 1974. Their concern for the potential economic, social, and environmental impacts have been and are being received. Because of the potentially significant impacts, it has been determined that an environmental statement is necessary.

Robert H. Torheim, Regional Forester, is the responsible official and John L. Emerson, Forest Supervisor, and his staff will prepare the statement.

The draft environmental statement is scheduled for completion by August 31, 1978, with a 90-day review period. The final environmental statement may be either a Timber Management Plan Environmental Statement or a Forest Plan Environmental Statement depending on the progress of the Forest Planning required by the National Forest Management Act.

Comments on the notice of intent or on the timber management plan should be sent to John L. Emerson, Forest Supervisor, Flathead National Forest, Box 147, Kalispell, Mont. 59901.

Dated: June 29, 1978.

JAMES E. REID,
Director, Planning, Programing, and Budgeting.

[FR Doc. 78-19040 Filed 7-10-78; 8:45 am]

[3410-15]

Rural Electrification Administration

ARKANSAS ELECTRIC COOPERATIVE CORP.

Draft Environmental Impact Statement

Correction

In FR Doc. 78-16003, appearing at page 25158 in the issue for Friday, June 9, 1978, on page 25159, in the first column, in the second line, the comments closing date listed as "July 10, 1978," should be "August 8, 1978".

[3410-16]

Soil Conservation Service

CORRALES WATERSHED, BERNALILLO AND SANDOVAL COUNTIES, N. MEX.

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Corrales Watershed, Bernalillo and Sandoval Counties, N. Mex.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. A. W. Hamelstrom, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project or measure concerns a plan for floodwater damage reduction, erosion reduction, and sediment damage reduction. The planned works of improvement include two floodwater diversions and minor channel work. Floodwater diversion number two and the associated channel work were completed in March 1975.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. A. W. Hamelstrom, State Conservationist, Soil Conservation Service, 517 Gold Avenue SW., Room 3301, Box 2007, Albuquerque, N. Mex. 87103; 505-766-3277.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008).

Dated: July 3, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-19041 Filed 7-10-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32343]

DALLAS/FORT WORTH/HOUSTON-PHILADELPHIA SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on August 14, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on May 18, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 5, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-19050 Filed 7-10-78; 8:45 am]

[6335-01]

CIVIL RIGHTS COMMISSION

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 4 p.m. and will end at 6:30 p.m. on August 16, 1978, at John Rose's Office, Hartford, Conn.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18974 Filed 7-10-78; 8:45 am]

[6335-01]

KENTUCKY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Kentucky Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 11:45 p.m. on July 27, 1978, Galt House, 4th Street at River Road, Louisville, Ky.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

The purpose of this meeting is to release the Kentucky Advisory Committee report, A Paper Commitment; Equal Employment Opportunity in the Kentucky Bureau of State Police.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18975 Filed 7-10-78; 8:45 am]

[6335-01]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 7 p.m. on August 9, 1978, Quincy Community School, Boston, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18976 Filed 7-10-78; 8:45 am]

[6335-01]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committe (SAC) of the Commission will convene at 4:30 p.m. and will end at 7 p.m. on September 13, 1978, Quincy Community School, Boston, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18977 Filed 7-10-78; 8:45 am]

[6335-01]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10 a.m. on July 26, 1978, Anti-Defamation League, Directors' Room, 163 Madison, Detroit, Mich.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss program planning for fiscal year 1979.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18978 Filed 7-10-78; 8:45 am]

[6335-01]

MONTANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 1 p.m. on July 29, 1978, at Northern Hotel, Broadway and First Avenue North, Billings, Mont.

Person wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is to review a report on corrections in Montana and to plan future activities.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 7, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-19154 Filed 7-10-78; 8:45 am]

[6335-01]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 12 p.m. and will end at 2:30 p.m. on July 27, 1978, Carpenter Center, Manchester, N.H.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18979 Filed 7-10-78; 8:45 am]

[6335-01]

SOUTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on July 26, 1978, Howard Johnson's Motor Lodge, 2211 LaCrosse, Black Hills Room 2, Rapid City, S. Dak.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is to plan future activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 7, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-19155 Filed 7-10-78; 8:45 am]

[6335-01]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on July 25, 1978, at the Brown-Derby, Montpelier, Vt.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-18980 Filed 7-10-78; 8:45 am]

[6330-01]

THE COMMISSION OF FINE ARTS

MEETING

The Commission of Fine Arts will meet in open session on Tuesday, July 25, 1978, at 10 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice of December 27, 1977, published at 42 FR 64651.

Dated in Washington, D.C., July 6, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-19034 Filed 7-10-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXEMPT TEXTILE PRODUCTS FROM THE PHILIPPINES

Changes in Officials of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Certifications

JULY 6, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Three officials of the Government of the Republic of the Philippines have been authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that, effective on June 16, 1978, the following officials are authorized to issue export visas and certifications for exempt textile products exported to the United States: Deputy Minister Vicente B. Valdepenas, Jr., Eduardo G. Sanchez, Miss Alicia L. de la Cruz.

EFFECTIVE DATE: June 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On September 9, 1976, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (41 FR 38205), which established an export visa requirement and certification for exemption of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has requested that three officials be recognized as authorized to issue export visas and certifications for exemption.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-19043 Filed 7-10-78; 8:45 am]

[3510-25]

TEXTILE IMPORTS FROM HONG KONG

Visa Requirements

JULY 16, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Interpreting visa requirements for shipments valued under $250 from Hong Kong.

SUMMARY: Annex D of the United States-Hong Kong textile agreement, signed August 8, 1977, provides, among other provisions, that each shipment of textile apparel products under the agreement shall be accompanied by an export visa issued by the Government of Hong Kong and that each shipment valued under $250 (U.S. dollars) be visaed to indicate "under 250 dollars." These visa requirements were provided, in part, to prevent circumvention of the agreement, and the requirement with respect to shipments under $250 was included so that Governments of both the United States and Hong Kong would be provided data on such shipments.

The purpose of this FEDERAL REGISTER notice is to advise interested parties, well in advance of the effective date, August 15, 1978, that visas will be required on all shipment of cotton, wool, and manmade fiber textile apparel products from Hong Kong except those "accompanying a traveler for personal use" and those which are entered as "exempted from duty as bonafide gifts."

Effective date: August 15, 1978.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-19044 Filed 7-10-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

REQUESTS FOR INTERPRETATION

Filed With the Office of General Counsel, Month of June 1978

Notice is hereby given that during the month of June 1978, the requests for interpretation listed in the appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the requests for interpretation listed herein are on file in DOE's Public Reading Room, Information Access Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested parties may submit written comments on the listed interpretation requests on or before August 10, 1978. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 5134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR § 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information, contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9070.

Dated: July 6, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration, Department of Energy.

APPENDIX

LIST OF REQUESTS FOR INTERPRETATION RECEIVED BY THE OFFICE OF GENERAL COUNSEL, MONTH OF JUNE 1978

Date received, name and location of requestor, and file number

June 5—Campbell H. Elkins and El Ran, Inc., Joe A. Rudberg, Thompson, Knight, Simmons & Bullion, 2300 Republic National Bank Building, Dallas, Tex. 75201, A-328. Issue: Whether a "property" with a BPCL of zero will qualify as stripper well property if it meets the requirements set forth in 10 CFR § 212.54.

June 6—Crude Oil Purchasing, Inc., Warren Belmar, David R. Johnson, Fulbright & Jaworski, 1150 Connecticut Avenue NW., Washington, D.C. 20036, A-329. Issue: May the new item rule set forth in 10 CFR § 212.111(b)(3) be applied to new crude oil resellers where the "nearest" crude oil reseller is not reasonably "comparable" in its commercial operations.

June 8—Getty Oil Co., Kathleen A. O'Connor, 3810 Wilshire Boulevard, Los Angeles, Calif. 90010, A-330. Issue: If a vessel, whether proprietary or chartered, is "light-loaded", is the limitation on the calculation of deadfreight based upon the largest fully loaded vessel applicable. (10 CFR § 212.85(d)(1)(ii).)

June 15—Time Oil Co., Terrill L. Henderson, 2737 West Commodore Way, P.O. Box 24447, Terminal Annex, Seattle, Wash. 98124, A-331. Issue: Where a supplier's usual practice prior to and during the base period permitted a purchaser to vary the ratio of regular v. premium grades of motor gasoline purchased, must the supplier now permit the purchaser to vary

the ratio of the grades purchased, or may the supplier supply the regular and premium grades in the same ratio that was supplied during the base period. (10 CFR § 210.62(a).)

June 26—Wisconsin, State of, Barry R. Wanner, Department of Local Affairs and Development, 113 West Washington Avenue, Madison, Wisc., A-332. Issue: Whether the definition of "low income" as set forth in 10 CFR Part 440.3 is the correct definition for determining eligibility of a dwelling unit for weatherization grant assistance.

[FR Doc. 78-19038 Filed 7-10-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50370; FRL 925-4]

DEPARTMENT OF AGRICULTURE ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 11312-EUP-4. U.S. Department of Agriculture, Byron, Ga. 31008. This experimental use permit allows the use of 1,245 pounds of the insecticide Aldicarb on pecan trees to evaluate control of aphids, mites, spittlebugs, phylloxera, leafminers, and nematodes. A total of 95 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, Georgia, New Mexico, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from June 6, 1978 to June 6, 1979. A temporary tolerance for residues of the active ingredient in or on pecans has been established.

No. 11312-EUP-30. U.S. Department of Agriculture, APHIS, PPQ, Hyattsville, Md. 20782. This experimental use permit allows the use of 2,781 pounds of the insecticide Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on rangeland to evaluate control of the black grassbug. A total of 5,000 acres is involved; the program is authorized only in the States of Arizona, Colorado, and New Mexico. The experimental use permit is effective from April 28, 1978 to April 28, 1979. A permanent tolerance for residues of the active ingredient in or on grass and grass hay has been established (40 CFR 180.198).

No. 21137-EUP-2. Em Laboratories, Inc., Elmsford, N.Y. 10523. This experimental use permit allows the use of 397 pounds of the insecticide 0-[2,5-Dichloro-4-(methylthio) phenyl]0,0-diethyl phosphorothioate on peaches and grapes to evaluate control of grape-berry moth, grape leafhopper, oriental fruit moth, plum curculio, and catfacing insects. A total of 2,625 acres is involved; the program is authorized only in the States of California, Georgia, Michigan, New Jersey, New York, Pennsylvania, South Carolina, and Washington. The experimental use permit is effective from April 12, 1978 to April 12, 1979. All crops treated under this permit will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: June 30, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-18990 Filed 7-10-78; 8:45 am]

[6560-01]

[OPP—30000/3D; FRL 925-8]

PESTICIDE PRODUCTS CONTAINING CHLOROBENZILATE

Notice of Determination Concluding the Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Chlorobenzilate; Availability of Position Document

On May 26, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 21517) a notice of rebuttable presumption against registration and continued registration (RPAR) of pesticide products containing chlorobenzilate. Registrants and other interested persons were provided the opportunity to submit data and information to rebut the presumption. After reviewing all available information, the EPA has determined that the cancer risk presumption announced in the chlorobenzilate RPAR has not been rebutted, and that the uses of chlorobenzilate pose risks of cancer and adverse testicular effects to certain exposed groups. The Agency has also reviewed information relating to the benefits of these uses and after considering risks in relation to benefits, has determined that these risks may be reduced by modifying the terms and conditions of registration for some uses and by canceling other uses.

Accordingly, the notice of determination published below and the referenced EPA position document regarding chlorobenzilate set forth in detail the reasons and factual bases for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, copies of this notice of determination and the position document are being transmitted to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected registrants. Other interested persons may receive a copy of the position document for review by contacting Mr. J. B. Boyd, Project Manager, Office of Special Pesticide Reviews (WH-566), EPA, Room 447, East Tower, 401 M Street, Washington, D.C. 20460, 202-755-5632.

Registrants and other interested persons may also comment on the bases for the proposed actions. All comments should be sent to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the comments. The comments should bear the identifying notation OPP-30000/3D, and should be submitted on or before August 10, 1978.

After completion of review procedures by the Secretary of Agriculture and the Scientific Advisory Panel, EPA will consider the comments received and publish an analysis of them together with any resulting changes in the regulatory actions announced in the notice of determination.

Dated: July 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

NOTICE OF DETERMINATION PURSUANT TO 40 CFR 162.11(a)(5) CONCLUDING THE CHLOROBENZILATE RPAR

I. INTRODUCTION

On May 26, 1976, the Environmental Protection Agency issued a notice of rebuttable presumption against registration and continued registration ("RPAR") of pesticide products containing chlorobenzilate (41 FR 21517), thereby initiating the Agency's public review of the risks and benefits of the registered uses of chlorobenzilate, and the uses for which applications for registration are pending. This notice constitutes the Agency's notice of determination ("notice") pursuant to 40 CFR 162.11(a)(5), terminating the chlorobenzilate RPAR.

In broad summary, the Agency has determined that the cancer risk pre-

sumption announced in the chlorobenzilate RPAR has not been rebutted, and that the cancer risk posed by chlorobenzilate to certain exposed groups is of sufficient concern to require the Agency to consider whether offsetting economic, social, or environmental benefits exist. Moreover, in the course of analysis of rebuttal information, the Agency discovered information indicating that chlorobenzilate may cause adverse testicular effects. The Agency has concluded that this effect is also of sufficient concern with regard to one exposed group to require the Agency to consider whether offsetting economic, social, or environmental benefits result from the chlorobenzilate uses in question. The Agency has considered benefits information, including that submitted by registrants, interested persons and the U.S. Department of Agriculture, and has analyzed the economic, social, and environmental benefits of the uses of chlorobenzilate subject to this RPAR. The Agency has weighted risks and benefits together, in order to determine whether the risks of each chlorobenzilate use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what risk reductions could be achieved, and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of the citrus uses of chlorobenzilate in Florida, Texas, and California are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reduction can be achieved without significant impacts on the benefits of the uses. In addition, the Agency has decided to require registrants and applicants for registration for these citrus uses to conduct additional exposure studies in order to permit the Agency to further refine its exposure estimates. With respect to the noncitrus uses of chlorobenzilate and the uses of chlorobenzilate on citrus in Arizona, the Agency has determine that the risks of chlorobenzilate use outweigh the benefits, and the Agency is initiating action to cancel or deny registrations for these uses.

The remainder of this notice and the accompnaying position document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the chlorobenzilate RPAR, and the Agency's reasons and factual bases for the regulatory actions it is initating. The notice is organized into four sections. Section I is this introduction. Section II, titled "Legal Background," sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency determinations concluding the chlorobenzilate RPAR and initating the regulatory actions which flow from these determinations; section III and the accompanying position document set forth the bases for these determinations. Section IV, titled "Procedural Matters," provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this notice.

II. LEGAL BACKGROUND

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA"), a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects" on the environment (section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.[1]

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The RPAR process is set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to man or the animal or plant of concern with regard to the adverse effect in question.[2] Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a notice of determination. In that notice, the Agency is required to state

[1] Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" [FIFRA section 2(q)]. Among other things, this section provides that a pesticide is misbranded if "the labeling * * * does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any * * * [restrictions] imposed under section 3(d) * * * are adequate to protect health and the environment.

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

[2] 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: "(1) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3) (i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or use and to local, regional or national populations of nontarget organisms is not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist of accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error. A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

and explain its position on the question whether the risk presumption has been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency. If the Agency determines that the risks of a pesticide use appear to outweigh its benefits, the RPAR process will conclude with a notice of intent to cancel or deny registration, pursuant to FIFRA section 6(b)(1) or section 3(c)(6). If, on the other hand, the Agency determines that benefits appear to outweigh the risks, the Agency may issue a notice of intent to hold a hearing as authorized by section 6(b)(2) of FIFRA to determine whether the registration should be canceled or applications for registration denied.[3] The regulations further provide that the Agency may withdraw a notice of intent to hold a hearing on whether registration should be canceled or denied if there is insufficient public interest.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications in the terms or conditions of registration on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are requiring changes in the directions for use on the pesticide's labeling, and classifying the pesticide for "restricted use" pursuant to FIFRA, section 3(d).

The statute requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy [section 6(b)]. The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. The Secretary of Agriculture is required to comment in writing within 30 days of receiving the notice, and the Agency is required to publish the Secretary's comments and the Administrator's response with publication of the notice. The statute also requires the Administrator to submit section 6 notices to a scientific advisory panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture. [Section 25(d).]

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decision making to afford an opprotunity to comment on the bases for the proposed action to registrants and other interested persons, during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the FEDERAL REGISTER, and by other means. Registrants and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After complying with these external review requirements and accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency will proceed to implement the desired regulatory action by sending and making public a notice of intent to cancel under FIFRA section 6(b)(1) or a notice of intent to hold a hearing under FIFRA section 6(b)(2), as appropriate. Registrants and other interested persons have 30 days to request a hearing, in the case of notices of intent to cancel under FIFRA section 6(b)(1). In the event a hearing is not requested and any changes in the terms or conditions of registration directed in the cancellation notice are not accepted, the cancellation action announced in the notice of intent will take effect automatically at the end of the 30 day notice period. If a hearing is requested, it will be governed by the Agency's rules of practice for hearings under FIFRA section 6 [40 CFR Part 164]; the cancellation action will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. Rules governing participation in and the conduct of hearings under FIFRA section 6(b)(2) are also set forth in 40 CFR Part 164. As noted earlier, the Agency may withdraw such a notice prior to the commencement of a hearing, upon appropriate findings.

III. DETERMINATIONS AND INITIATION OF REGULATORY ACTION

The Agency has considered information on the risks associated with the use of chlorobenzilate, including information submitted by registrants and other interested persons in rebuttal to the chlorobenzilate RPAR. The Agency has also considered information on the social, economic and environmental benefits of the uses of chlrorbenzilate subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the uses of chlorobenzilate subject to this RPAR, its conclusions and determinations whether any uses of chlorobenzilate pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the position document accompanying this notice. This position document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to chlorobenzilate are as follows:

A. Determinations On Risks

The chlorobenzilate RPAR was based on laboratory studies showing that chlorobenzilate induced oncogenic effects in experimental mammalian species. The Agency has determined that the presumption that chlorobenzilate poses an oncogenic risk has not been rebutted. As developed fully in the position document, the Agency has determined that two of the studies which formed the basis for the chlorobenzilate RPAR are insufficiently reliable for assessing the oncogenicity of chlorobenzilate. However, the Agency has further determined that several other studies provide a reliable basis for concluding that chlorobenzilate induces oncogenic effects in experimental mammalian species, and that under the Agency's

[3] As indicated above, one of the primary purposes of the RPAR process is information-gathering about pesticide uses which may cause unreasonable adverse effects. At times during an RPAR, new information about the risks or benefits of a pesticide will come to light, as a result of the development of new information, or as a result of reassessing previously available information or for other reasons. In such instances, it is Agency policy to consider such information in the risk/benefit assessment of the pesticide use in question which is already underway. Generally, the Agency will not publish a separate or amended RPAR notice with respect to such new information; accordingly, the Agency has frequently admonished pesticide registrants and other participants in the RPAR process to take full and frequent advantage of the Agency's open invitation to inspect the RPAR public files, and otherwise to keep abreast of developments in any ongoing RPAR proceeding.

Interim Cancer Assessment Guidelines, these laboratory studies provide substantial evidence that chlorobenzilate poses a cancer risk to man. The Agency further has determined that human exposure may result from the uses of chlorobenzilate, and that chlorobenzilate use therefore poses a cancer risk to man of sufficient magnitude to require the Agency to determine whether the uses of chlorobenzilate offer offsetting social, economic or environmental benefits. The Agency has identified the key populations at risk with respect to chlorobenzilate use the U.S. population at large, Florida residents, pesticide applicators, and citrus pickers.

Based upon its review of risk information, including risk information submitted in rebuttal of the chlorobenzilate RPAR, the Agency has determined that chlorobenzilate causes adverse effects to the testes of male rats. The Agency has further determined that exposure levels of male pesticide applicators are high enough, in comparison to the "no observable effect" levels for adverse testicular effects in rats, to warrant a conclusion that chlorobenzilate may pose a risk of adverse effects to the testes of applicators of sufficient magnitude to require the Agency to determine whether offsetting social, environmental or economic benefits result from the uses of the pesticide.

B. Determinations On Benefits

The uses of chlorobenzilate which are subject to this RPAR may be grouped into two categories: Citrus uses, and other uses.[4]

1. *Citrus uses.* Chlorobenzilate is used on citrus crops in Florida, Texas, Arizona, and California to control mites. Most use occurs in Florida (72 percent). Significant adverse economic effects, including production losses, would occur if mite pests were not controlled. Chlorobenzilate is utilized in citrus integrated pest management ("IPM") because it is selective to mites and does not kill predators and parasites of citrus scale pests. Such integrated pest management approaches are utilized extensively in Florida, and to a lesser extent in the other citrus growing regions. There are several other selective miticides registered for use on citrus crops, and a number of nonselective miticides are registered for use on citrus crops.

With respect to Florida, the Agency has determined that chlorobenzilate cancellation would cause significant increases in pest control costs. Nonselective miticides would be the predominant replacements for chlorobenzilate, for economic and other reasons developed in detail in the position document. This would necessitate abandonment of IPM control of scale insects because of reduction in populations of beneficial insects, and the utilization of large volumes of chemical pesticides to control scale insects.

In Texas, pest control costs would also increase if chlorobenzilate were canceled. Economic and other factors favor adoption of selective alternatives to a greater extent in Texas than in Florida. However, the selective alternatives appear to pose risk problems which warrant caution in encouraging their use.

Relatively small amounts of chlorobenzilate are used in California on a few citrus crops in one area. However, cancellation of chlorobenzilate would have significant impacts, because there are no registered alternatives that are regarded as suitable chlorobenzilate replacements.

The loss of chlorobenzilate and the adoption of alternative miticides is projected to have no net cost to Arizona citrus growers. Using alternatives may disrupt IPM strategies in Arizona, but the extent of any such disruption has not been identified, nor the resulting cost quantified.

2. *Other uses.* With respect to the other uses of chlorobenzilate, the Agency has determined that registered alternatives are available for each use, which in some cases are less expensive than chlorobenzilate, and achieve comparable levels of control.

C. Determinations on Unreasonable Adverse Effects

For the reasons set forth in detail in the position document, the Agency has made the following unreasonable adverse effect determinations with respect to the uses of chlorobenzilate subject to this RPAR:

1. *Determinations on citrus uses.* The Agency has determined that the risks of the citrus uses of chlorobenzilate in Florida, Texas, and California are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the citrus uses of chlorobenzilate in Florida, Texas, and California will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and that the labeling of chlorobenzilate pesticide products for citrus uses will not comply with the provisions of FIFRA.

The Agency has determined that use of chlorobenzilate on citrus crops in Arizona poses risks which are greater than the social, economic, and environmental benefits of the use. Accordingly, the Agency has determined that these uses of chlorobenzilate will generally cause unreasonable adverse effects on the environment, when used in accordance with commonly recognized practice.

2. *Determinations on uses other than the citrus use.* The Agency has determined that the uses of chlorobenzilate other than the citrus use which are subject to this RPAR pose risks which are greater than the social, economic, and environmental benefits of the use. Accordingly, the Agency has determined that these uses of chlorobenzilate will generally cause unreasonable adverse effects on the environment when used in accordance with commonly recognized practice.

D. Other Determinations

The Agency has determined that registrants and applicants for registration of chlorobenzilate products for citrus uses must develop and submit to the Agency within 1½ years the additional exposure studies described in section IV of the position document. The Agency will utilize these data for the purpose of refining its exposure estimates with respect to the citrus uses of chlorobenzilate, and reassessing its conclusions that use of chlorobenzilate on citrus crops in Florida, Texas, and California, in accordance with the modifications to the terms or conditions of registration determined herein to be necessary, does not cause unreasonable adverse effects on the environment.[5]

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and developed in detail in the Position Document, the Agency is initiating the following regulatory

[4] The category of "other" uses consists of the following: agricultural crops: cotton; fruits and nuts (apples, pears, cherries, almonds, and walnuts); melons (casaba, cantaloupes, crenshaw, honeydew, Persian); ornamentals (lawns and turf), grass; (herbaceous plants and bulbs) aster, carnations, chrysanthemums, gladioli, iris, marigold, phlox, snapdragon, zinnia; (woody shrubs, trees and vines)—arbovitae, azaleas, birch, boxwood, camellia, Douglas fir, elm, hawthorn, hemlock, holly, juniper, lilac, locust, maple, oak, ornamental shrubs, ornamental trees, pine, poplar, rhododendron, roses, spruce, willow yew; domestic dwellings, medical facilities and schools, commercial establishments (areas other than edible product areas)—outdoor areas, boats, and docks.

[5] For the Agency's authority to require registrants to conduct studies relevant to assessing the risks and benefits of a pesticide, and to report the results thereof to the Agency, see 40 CFR § 162.8(d)(1) and FIFRA § 6(b)(1).

actions, and this document shall constitute its Notice of Intention to initiate these actions:

1. Cancellation and denial of registrations of chlorobenzilate products for uses other than citrus uses in Florida, Texas, and California.

2. Cancellation and denial of registrations of chlorobenzilate products registered for use on citrus crops in Florida, Texas, and California, unless registrants or applicants for registration modify the terms or conditions of registration as follows: [6].

a. Classification of chlorobenzilate products for these citrus uses for restricted use, for use only by or under the direct supervision of certified applicators.

b. Modification of the labeling of chlorobenzilate products for these citrus uses to include the following:

Restricted Use Pesticide

For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification.

General Precautions

A. Take special care to avoid getting chlorobenzilate in eyes, on skin, or on clothing.

B. Avoid breathing vapors or spray mist.

C. In case of contact with skin, wash as soon as possible with soap and plenty of water.

D. If chlorobenzilate gets on clothing, remove contaminated clothing and wash affected parts of body with soap and water. If the extent of contamination is unknown, bathe entire body thoroughly. Change to clean clothing.

E. Wash hands with soap and water each time before eating, drinking, or smoking.

F. At the end of the work day, bathe entire body with soap and plenty of water.

G. Wear clean clothes each day and launder before reusing.

Required Clothing and Equipment for Application

A. Fine weave cotton fabric (Jersey), onepiece jumpsuit, long sleeves, long pants.

B. Wide-brimmed hat.

C. Heavy-duty fabric work gloves.

D. Any article which has become contaminated must be replaced.

E. Facepiece respirator of the type approved for pesticide spray applications by the National Institute for Occupational Safety and Health.

F. Instead of the above specified clothing and equipment, the applicator can use an enclosed tractor cab which provides a filtered air supply. Aerial application may be conducted without the above specified clothing and equipment.

Handling Precautions

Heavy-duty rubber or neoprene gloves and apron must be worn during loading, unloading, and equipment clean-up.

In addition to these actions, the Agency will soon be initiating action to require the additional exposure studies referenced above to be accomplished and submitted to the Agency. This action is not being initiated by this notice, but instead will be initiated by subsequent correspondence from the Office of Pesticide Programs to registrants and applicants for registration of chlorobenzilate products for citrus uses.

IV. PROCEDURAL MATTERS

As discussed above in section II of this notice, the Agency's decision to initiate the regulatory actions described in section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The transmittal of the Agency's decision to satisfy these external review requirements will occur shortly. As further indicated above, the Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the position document available upon request. Registrants and other interested persons will be given the same period of time to submit comments—30 days—that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from the conclusion of this RPAR.

Dated: June 30, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-19019 Filed 7-10-78; 8:45 am]

[6 FIFRA § 6(b)(1) provides that the Administrator may initiate proceedings to cancel a registration or change its use classification, where the Administrator finds that the pesticide does not satisfy the statutory standard for registration. However, the registered chlorobenzilate products subject to this RPAR have not yet been initially classified. Accordingly, any classification action with respect to these products is an initial classification, and not a change in classification. Initial classification generally does not give rise to a right to review the classification decision in an adjudicatory hearing. [See *Preamble to Optional Procedures for Classification of Pesticide Uses by Regulation*, 43 FR 5782, 5784 (Feb. 9, 1978)]. However, in view of the fact that the Agency is proposing other changes to the terms or conditions of the registration (e.g., labeling changes) for registered chlorobenzilate products, which are reviewable in adjudicatory hearings, the Agency has determined that it is appropriate to exercise its discretion to fashion procedures in excess of minimum statutory requirements, and to permit the question of whether chlorobenzilate products for citrus uses should be initially classified for restricted use and its use limited to certified applicators to be reviewed in any such adjudicatory hearing as well.]

[1505-01]

[FRL 908-5; OPP-180184]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control Fire Blight on Pears

Correction

In FR Doc. 78-15859 appearing at page 24906 in the issue for Thursday, June 8, 1978, on page 24907, in the first column, in the paragraph numbered "1.", in the first line, "Hyco Shield" should read "Myco Shield".

[6560-01]

[FRL 925-6]

PUBLIC INPUT TO INTERAGENCY REVIEW GROUP ON NUCLEAR WASTE MANAGEMENT

Announcement of Small Group Discussion

AGENCY: Environmental Protection Agency.

ACTION: Announcement of small group discussion.

SUMMARY: The Environmental Protection Agency (EPA) and the Council on Environmental Quality (CEQ) will host a small group discussion on behalf of the Interagency Review Group on Nuclear Waste Management, from 10 a.m. to 12 noon on Monday, July 17, 1978, at the Council on Environmental Quality Library, 722 Jackson Place NW., Washington, D.C. 20006. Approximately 15 invited participants from environmental, consumer, and public interest groups will provide input to assist the Interagency Review Group with its recommendations to the President. Interested members of the public may attend, but formal participation is limited to the invitees.

FOR FURTHER INFORMATION CONTACT:

Mary Fillmore, Office of Radiation

Programs, Criteria and Standards Division (AW-460), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 703-557-0704.

SUPPLEMENTARY INFORMATION: The Interagency Review Group (IRG) on Nuclear Waste Management was appointed by the President to recommend a plan to him for the disposal of radioactive waste. It is to define Federal goals for the management of wastes and to guide the development of a set of workplans for determining how the affected Federal agencies will proceed to dispose of the four major types of nuclear wastes: spent fuel, high level and transuranic wastes; low level wastes; uranium mill tailings; and decontamination and decommissioning wastes. Six Working Groups have been established, covering alternative technology strategies, Federal involvement (licensing, standards and criteria), defense wastes (special issue), spent fuel storage/charges, transportation issues, and international issues. The IRG is seeking public comment in all of these areas.

A public input plan has been adopted by the IRG using both small group discussion for in-depth consideration of special viewpoints, and larger scale public meetings. The discussion announced here is one of five which will include different viewpoints; the others are industry/utilities, professional/academics, States/Indian Tribes/local governments, and Congress. Larger public meetings will be held in San Francisco on July 21-22, Denver on July 24-25, and Boston on August 4-5; further details will be provided in a future FEDERAL REGISTER notice.

Dated: July 3, 1978.

DAVID G. HAWKINS,
Assistant Administrator.

[FR Doc. 78-18991 Filed 7-10-78; 8:45 am]

[1505-01]

[FRL 907-4; OPP-30000/26C]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Certain Pesticide Products Containing 2,4,5-T; Correction

Correction

In FR Doc. 78-15736 appearing on page 24743 in the issue for Wednesday, June 7, 1978, in the paragraph numbered "8.", in the second line, the second reference to " 00.05" should read "≤ 0.05".

[6730-01]

FEDERAL MARITIME COMMISSION

COLLECTIVE BARGAINING AGREEMENTS

Temporary Exemption

Notice is hereby given that on June 30, 1978, the Commission determined the following collective bargaining agreements to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending FEDERAL REGISTER notice, opportunity for comment, and subsequent determination by the Commission that the agreements (or any specific provision thereof) should be permanently exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, or should be approved, disapproved, or modified under that section. This action was taken in accordance with our June 9, 1978, interim policy statement—collective bargaining agreements (46 CFR 530.9).

Interested parties may inspect the agreements at the Washington office of the Federal Maritime Commission 1100 L Street NW., room 10218; or at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Comments on the agreements, including requests for hearing, may be submitted on or before July 31, 1978. Comments should include facts and arguments concerning the exemption, approval, modification, or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. LM-2, as amended and supplemented, between the National Marine Engineers' Beneficial Association and the Pacific Maritime Association.

Filing party: Mr. Edward D. Ransom, Lillick McHose & Charles, 2 Embarcadero Center, San Francisco, Calif. 94111.

Summary: The following agreements constitute the collective bargaining agreement between the National Marine Engineers' Beneficial Association (NMEBA), and the Pacific Maritime Association (PMA):

F.M.C. No. LM-2—Agreement dated June 16, 1972;
F.M.C. No. LM-2-1—Memorandum of understanding dated June 17, 1975;
F.M.C. No. LM-2-2—Memorandum of understanding dated June 16, 1978;
F.M.C. No. LM-2-A—PMA-NMEBA agreement establishing pension and welfare;
F.M.C. No. LM-2-B—Pension trust declaration;
F.M.C. No. LM-2-C—MEBA pension fund regulations;
F.M.C. No. LM-2-D—MEBA health and welfare fund rules and regulations;
F.M.C. No. LM-2-E—Agreement and declaration of trust establishing the MEBA training plan;
F.M.C. No. LM-2-F—Rules and regulations of the MEBA training plan;
F.M.C. No. LM-2-G—Agreement of merger of the MEBA tanker vacation plan and MEBA vacation fund into the MEBA vacation plan;
F.M.C. No. LM-2-H—As amended through No. LM-2-H-2, agreement and declaration of trust establishing the MEBA vacation plan—Atlantic, Gulf, and Pacific coasts;
F.M.C. No. LM-2-I—MEBA vacation plan—rules and instruction for filing claims; and
F.M.C. No. LM-2-J—Forms of nonmember employer participation in MEBA welfare plan.

By order of the Federal Maritime Commission.

Dated: July 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-19047 Filed 7-10-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N-0184; Desi 597 and 3265]

CERTAIN DRUG PRODUCTS CONTAINING AN ANTICHOLINERGIC/ANTISPASMODIC IN COMBINATION WITH A SEDATIVE/TRANQUILIZER; ANTISPASMODIC DRUGS ALONE

Rescission of Notice of Opportunity for Hearing

Corrections

In FR Doc. 78-16827 appearing at page 26489 in the issue for Tuesday, June 20, 1978, the heading should read as above and the following corrections made:

1. In the ninth line under the heading "Supplementary Information" appearing on page 26489, the proper spelling of the first word should be anticholinergic."

2. In the sixth entry under the heading "DESI 3265" on page 26490 the State abbreviation should read, "NH".

3. The ninth entry under the same heading on page 26490 now reading, "ANDA-84223" should read, ANDA-85-223".

[1505-01]

[Docket No. 75N-0184]

CERTAIN DRUG PRODUCTS IN CONVENTIONAL DOSAGE FORM CONTAINING AN ANTICHOLINERGIC/ANTISPASMODIC IN COMBINATION WITH A SEDATIVE/TRANQUILIZER; ANTISPASMODIC DRUGS ALONE

Permission for Drugs To Remain on the Market; Amendment

Corrections

In FR Doc. 78-16826 appearing at page 26490 in the issue for Tuesday, June 20, 1978, the following corrections should be made:

1. In the eleventh line appearing under the heading "Summary" in the middle column on page 26490, the word "such" should be inserted between "each drug".

2. The second full paragraph in the third column on page 26491 should be numbered, "1.".

3. In the third column on page 26491 the last "Requirements" heading should read, "After June 20, 1978".

4. In the fifth line under Roman Numeral II in the first column on page 26493, the word "other" should be inserted between "among things".

[4110-89]

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "control of paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acqusition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before August 10, 1978, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: July 6, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Museum Universe Survey.

2. Agency/bureau/office: National Center for Education Statistics, Division of Multilevel, Education Statistics, Learning Resources Branch.

3. Agency form No. NCES-2421.

4. Legislative authority for this activity: "* * * to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public." (Pub. L. 94-462; 20 U.S.C. 961), sec. 202.

"Section 406(b). The Center shall: * * * (1) collect, collate, and from time to time, report full complete statistics on the conditions of education in the United States; (2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;" (Pub. L. 93-380; 20 U.S.C. 1221.1).

5. Voluntary/obligatory nature of response: Voluntary.

6. How information collected will be used: *Program Management:* Information will be used to provide a current universe of museums which is needed by the staff of the HEW Institute of Museum Services in fulfilling their responsibilities for developing a universe. Information will also be used to determine the number of institutions eligible for assistance and to inform them of their eligibility. In addition, the information will provide data from which a reliable sample can be drawn for conducting a full scale survey. This first survey since 1966 will determine the scope of the museum educational and exhibit programs and other activities.

7. Data acquisition: (a) Method of collection: Mail and telephone followup where necessary.

(b) Time of collection: Fall 1978.

(c) Frequency: One time.

8. Respondents: (a) Type: Museum directors.

(b) Number: 7,500.

(c) Estimated average man-hours per respondent: 0.25 hours.

9. Information to be collected: Data to be collected consists of name, address, and telephone number of museum, the person in charge and the numbers of employees, total annual operating costs, type and control of museum by category.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Basic Educational Opportunity Grant Program, Student Validation Roster.

2. Agency/bureau/office: Office of Education, Bureau of Student Financial Assistance, Basic Educational Opportunity Grant program.

3. Agency form No. OE255-4.

4. Legislative authority for this activity: "The Commissioner shall, during the period beginning July 1, 1972, and ending September 30, 1979, pay each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2)." (Sec. 411(a)(1), Pub. L. 92-318 as amended.)

"Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of the section." (Sec. 411(b)(3)(A), Pub. L. 92-318). 20 U.S.C. 1070a.

"The institution shall submit such reports and information as the Commissioner may reasonably require in connection with the funds advanced to it in accordance with 190.74 and shall comply with such procedures as the Commissioner may find necessary to insure the correctness of such reports." (45 CFR 190.81) (20 U.S.C. 1070a)

5. Voluntary/obligatory nature of response: Required to maintain benefits.

6. How information to be collected will be used: The information that is supplied by the institution on the validation roster is a verification of the actual disbursements made to recipients on behalf of the Basic Grant program. This information, when compared with the final progress report data and actual institutional accounting data, will serve to reconcile each school's Basic Grant account at the end of the year. The roster also serves to assist in tracking recipients to ensure that no student receives Basic Grant awards beyond the duration of his/her eligibility and that overpayments are identified and collected.

7. Data acquisition plan: (a) Method of collection: Mail.

(b) Time of collection: 1978-1979.

(c) Frequency: Once annually.

8. Respondents: (a) Type: Postsecondary education institutions.

(b) Number: 5,000.

(c) Estimated average man-hours per respondent: 5.

9. Information to be collected: Upon the institution's submission of the student eligibility report to the Basic Grant program, key items are captured for the Student Validation Roster. These include the student's name, social security number, date of birth,

student eligibility index, total student cost, scheduled BEOG award, expected disbursement, total disbursement and status of each Basic Grant recipient enrolled at that institution. Seven (7) of the nine (9) items are preprinted and require changes where applicable to be annotated. The school's responsible official is required to verify the information on each student and correct any discrepancies.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Instructions and Application for Federal Assistance.
2. Agency/bureau/office: U.S. Office of Education, Office of Right to Read.
3. Agency form No. OE-295.
4. Legislative authority for this activity: "No agreement may be entered into under this part, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require." (20 U.S.C. 1921) Pub. L. 93-380, Sec. 705. (b).

"The Commissioner shall. * * * (3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes. (20 U.S.C. 1231a) Pub. L. 94-482.

5. Voluntary/obligatory nature of response: Required to obtain benefit.
6. How information collected will be used: The data collected will be used by the Right to Read program to determine grant eligibility and to make recommendations for approval of applications.
7. Data acquisition plan: (a) Method of collection: Mail.
(b) Time of collection: Winter.
(c) Frequency: Annual.
8. Respondents:
(a) Type: Local Educational Agencies.
(b) Number: 130.
(c) Average man-hours per respondent: 20.
(a) Type: State Education Agencies.
(b) Number: 57.
(c) Average man-hours per respondent: 20.
(a) Type: Other (community organizations), colleges and universities.
(b) Number: 80.
(c) Average man-hours per respondent: 20.
9. Information to be collected: The standard Form 424 will be used by all respondents.

Local education agencies: Project objectives, project schools, and program requirements.

State education agencies: Nature of project, project activities, and funding requirements.

Other (community organizations) colleges and universities: Measureable objectives, proposed time frame, proposed procedures and strategies, and evaluation component.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Financial Status, Performance, and State Advisory Council Reports Under Title IV of the Elementary and Secondary Education Act, Libraries and Learning Resources, Education Innovation and Support, Pub. L. 93-380.
2. Agency/bureau/office: U.S. Office of Education, Bureau of Elementary and Secondary Education.
3. Agency form No. OE-535-1, -2, -3.
4. Legislative authority for this activity: "State agencies shall use the standard Financial Status Report prescribed by attachment H of OMB Circular No. A-102 to report the status of funds for all nonconstruction grant programs * * *" (45 CFR 100b.432).

"State agencies shall submit a performance report with each financial Status Report * * * in the frequency established by Subpart P of this part. The Commissioner will prescribe the frequency with which performance reports will be submitted * * *" OMB Circular No. A-102, attachment I. (45 CFR 100b.432).

"Sec. 403(b)(1)(D). The State advisory Council shall prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate to the Commissioner." (20 U.S.C. 1803) Pub. L. 94-482.

5. Voluntary/obligatory nature of response: Funds may, but not necessarily will, be withheld under this program unless the financial status report is compiled and filed as required by existing law and regulations (20 U.S.C. 1803).
6. How information collected will be used: The information is needed to assure that adequate progress is being made toward achieving the goals of the grants. Because there are two separate allotments, one for Part B and one for Part C, the use of Title IV funds must be reported separately for the two parts. Part B and Part C have different program purposes but operate under a single annual program (State) plan.
7. Data acquisition plan: (a) Method of collection: Mail.
(b) Time of collection: Fall.
(c) Frequency: Annual.
8. Respondents: (a) Type: State educational agencies and Title IV State Advisory Councils.
(b) Number: 58.
(c) Estimated man-hours per respondent: 40.
9. Information to be collected:
(a) Financial status reports:
(1) Libraries and learning resources; expenditures for program administration; expenditures for school library resources/other instructional materials, textbooks, instructional equipment, minor remodeling, testing, and counseling and guidance for *public* school children expenditures for school library resources/other instructional materials, textbooks, instructional equipment, testing, and counseling and guidance for the benefit of private school children; total expenditures; and expenditures for State advisory council from funds for program administration.
(2) Education innovation and support: Expenditures innovation and support; expenditures for program administration; expenditures for strengthening the leadership resources of State educational agencies; expenditures for strengthening the leadership resources of local educational agencies; expenditures for supplementary centers and services developmental/innovative projects; expenditures for supplementary centers and services adapter/disseminator/facilitator projects; expenditures for all supplementary centers and services projects; expenditures for nutrition and health projects; expenditures for dropout prevention projects; and expenditures for State advisory council from funds for program administration.
b. Performance report:
(1) Part I—General: (a) Comparison of actual accomplishments of Title IV administrative goals (procedures and activities) with those set forth in Annual Program (State) Plan; explanation of causes of slippage, if any, in meeting established goals; (b) number of persons and full time equivalents of those persons paid from Title IV administrative funds; and (c) State public and private elementary and secondary school enrollments.
(2) Part II—Libraries and learning resources: (a) Description of the cumulative impact of the Part B program on the education of public and private school children; (b) description of impact of local discretion requirement; (c) description of effectiveness of Part B fund distribution criteria; (d) description of any maintenance of effort problems; (e) abstracts of 5-10 outstanding Part B projects; (f) total number of LEA Part B projects (unduplicated count); (g) total number of children served under Part B (unduplicated count); and (h) number school guidance counselors in elementary and secondary public schools exclusively, private schools exclusively, both public and private schools.
(3) Part III—Educational innovation and support: (a) Description of problems in: (1) Providing technical assistance to small or poor LEA's less likely to compete for Part C projects, and (2) providing for equitable participation of private school children; (b) comparision of actual accomplishments with plans and description of results and benefits derived by agencies, individual participants, and/or affected populations, and identification of effective activities for program, for: (1) Strengthening the leadership resources of State and local educational agencies, and (2) supplementary centers and services, nutrition and health, and dropout prevention; (c) description of adoption activities of innovative projects; (d) abstracts of 5-10 outstanding Part C projects; (e) number of professional and nonprofessional persons and full time equivalents supported in State and local educational agencies with funds from Sec. 431(a)(3) of Title IV, Part C; (f) number of LEA's participating in developmental/innovative, adapter/disseminator/facilitator, and other Part C projects, by enrollment size of LEA; (g) number of public and private elementary and secondary school children and number of preschool children participating in Part C supplementary centers and services programs; (h) number of LEA's participating in health and nutrition, dropout prevention, and handicapped projects, by enrollment size of LEA; and public and private elementary and secondary school children participating in health and nutrition, dropout prevention, and handicapped projects.
c. State advisory council (SAC) report:
(1) Description of SAC activities.
(2) Description of SAC evaluation of all programs and projects.
(3) Recommendatons of SAC.
(4) Certificaton of SAC activities by SAC chairperson.
(5) Comments from State educational agency.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Follow-up Survey of WEEA Project Directors.
2. Agency/bureau/office: National Advisory Council on Women's Educational Programs, Office of Education.
3. Agency form No. OE-624.
4. Legislative authority for this activity: "Sec. 408(d)(1). The Commissioner * * * is

authorized to make grants * * * and enter into contracts * * * for activities to carry out the purpose of this section * * *. These activities shall include—

"(A) the development, evaluation and dissemination by the applicant of curricula, textbooks and other educational materials related to educational equity * * *

"(f)(1) There is established in the Office of Education a National Advisory Council on Women's Educational Programs * * *

"(3) The Council shall—

"(B) advise and make recommendations * * * concerning the improvement of educational equity for women;

"(C) make recommendations * * * with respect to the allocation of any funds * * *

"(D) develop criteria for the establishment of program priorities." (20 U.S.C. 1866) Pub. L. 93-380."

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: A Study of SEA Title VII-Funded and Other Bilingual Education Teacher Training Programs.

2. Agency/bureau/office: U.S. Office of Education/Office of Planning, Budgeting, and Evaluation.

3. Agency form No. OE-661.

4. Legislative authority for this activity: General Education Provisions Act, section 417 (20 U.S.C. 1226c), states: "* * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes * * * such report shall—

"(A) set forth goals and objectives in qualitative and quantitative terms * * *

"(B) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

"(C) describe the cost and benefits of the * * * program being evaluated * * *

"(D) contain plans for implementing corrective action * * *"

5. Voluntary/obligatory nature of response: Voluntary.

6. How information collected will be used: The Women's program Staff has, as its first thrust, the development and dissemination of materials and products to improve educational equity for women and girls. The National Advisory Council on Women's Educational Programs will use the information collected through this questionnaire in determining whether thrust should be continued and to make recommendations to the Commissioner to that effect.

7. Data acquisition plan:

(a) Method of collection: Mail.

(b) Time of collection: Fall 1979.

(c) Frequency: Once—six months after the expiration of the grant. It is expected that all materials and products will be completed by December, 1979.

8. Respondents:

(a) Type: Individuals, nonprofit organizations, institutions of higher education, local education agencies, and State education agencies.

(b) Number: 120.

(c) Estimated average man-hours per respondent: 0.5 person hours.

9. Information to be collected: this questionnaire is designed to gather information about the success and problems of the projects in developing the materials and products; and to identify grantees' needs for technical assistance.

Also, the "Criteria Governing Grants Awards" published in the FEDERAL REGISTER (June 11, 1976) states: "* * * Evidence that the applicant will cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart [Subpart B—Basic (LEA) programs, Subpart C—Training Resource Centers, Subpart D—Training Programs (IHE's, LEA's, SEA's)] have been effective in achieving the purposes of this Part * * *."

5. Voluntary/obligatory nature of response: Voluntary.

6. How information to be collected will be used: Information obtained from this study will be used by USOE to (a) determine the degree to which the programs in operation are achieving the objectives of USOE, and (b) propose modifications in these programs if so indicated.

7. Data acquisition plan: (a) Method of collection: Site visits to IHE's, Training Resource Centers; Mail survey of LEA's; mail and telephone surveys of graduates.

(b) time of collection: 1979-80 Academic Year.

(c) Frequency: Single time.

8. A. Respondents (IHE's):

(a) Type: Administrator.

(b) Number: 40.

(c) Estimated average man-hours per respondent: 1.

(a) Type: Project Directors.

(b) Number: 40.

(c) Estimated average man-hours per respondent: 1.

(a) Type: Instructors.

(b) Number: 80.

(c) Estimated average man-hours per respondent: 1.

B. Respondents (Training Resource Centers):

(a) Type: Center Directors.

(b) Number: 16.

(c) Estimated average man-hours per respondent: 1.

(a) Type: Trainers/Instructors.

(b) Number 16.

(c) Estimated average man-hours per respondent: 1.

C. Respondents (LEA's):

(a) Type: Bilinqual Education Project Directors.

(b) Number 150.

(c) Estimated average man-hours per respondent: 1.

D. Respondents:

(a) Type: Present and former students in IHE teacher training programs.

(b) Number 500.

(c) Estimated average man-hours per respondent: 0.25.

9. Information to be collected:

Respondent type: IHE's: Source(s) of program funding. Institutional relationship of bilingual training to IHE. How has program evolved over recent years? How many students are in the program? What student competencies are taught in the school? What procedures are used to determine student attainment of these proficiencies?

Respondent type: Training Resource Centers: Description of training offered. Relationship of Training Resource Center to IHE's, LEA's.

Respondent type: Local Education Agency: Number receiving training. Kinds of training. Name and place of training. Degree of responsiveness of training facility to LEA needs.

Respondent type: Current and former graduates of IHE training programs: Place of employment. Duties of employment.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Study of Supplemental Training Available to Follow Through Parents and Aides.

2. Agency/bureau/office: U.S. Office of Education/Office of Planning, Budgeting, and Evaluation.

3. Agency form No. OE-662.

4. Legislative authority for this activity: The Follow Through (FT) program was originally authorized in 1967 by the Economic Opportunity Act. The program was reauthorized by Congress in the Economic Opportunity Amendments of 1972. Two years later, the Community Services Act of 1974 reextended authorization for the program and elaborated on the evaluation aspects of the program: "provide * * * for the evaluation of projects assisted under this part * * * including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals * * *" (Community Services of 1974, Pub. L. 93-644, Part 8) (42 U.S.C. 2921).

5. Voluntary/obligatory nature of response: Voluntary.

6. How information to be collected will be used: The principal objective of this study is to present a historical account of the Career Development Component of Follow Through; specifically, the numbers and characteristics of participants and a description of the training received. The information will be used by OPBE and the Follow Through program office to determine whether a redirection of effort in this area would be desirable.

7. Data acquisition plan: (a) Method of collection: Telephone calls to former and present recipients of training funds, primarily paraprofessional parents of Follow Through children.

(b) Time of collection: Spring 1979.

(c) Frequency: Single time.

8. Respondents:

(a) Type: Former and present recipients of Follow Through training funds.

(b) Number: 200.

(c) Estimated average man-hours per respondent: 0.25.

9. Information to be collected:

Characteristics of participants: (a) Are trainees parents of Follow Through children? Teachers? Aides? (b) Educational level prior to training. (c) Cost per participant. (d) Did trainee return to Follow Through project after training?

Characteristics of training received: (a) Subject matter field, degree(s) received. (b) Name of training facility. (c) Cost per applicant by item (books, tuition, transportation, etc.).

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Applications for Strengthening Developing Institutions Program, Title III Higher Education Act of 1965, as amended.

2. Agency/bureau/office: Office of Education, Bureau of Higher and Continuing Edu-

cation, Division of Institutional Development.

3. Agency form No: OE-1049-1.

4. Legislative authority for this activity: "Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title." (20 U.S.C. 1052, Pub. L. 92-318, sec. 302(b)).

5. Voluntary/obligatory nature of response: Required to obtain benefits.

6. How information to be collected will be used: The Division will use the information in its grant award process, in order to determine (a) which applicants will receive grants, and (b) the total amount of any grant that may be awarded, in keeping with the objectives and priorities of the Strengthening Developing Institutions Program.

7. Data acquistion plan: (a) Method of collection: Mail.

(b) Time of collection: Fall.

(c) Frequency: Annually.

8. Respondent: (a) Type: Colleges and universities.

(b) Number: 450-500.

(c) Estimated average man-hours per respondent: 60.

9. Information to be collected: Part I: Standard Form 424, followed by OE Form 1049-1 in the following parts: Part II: Consortium Participants (submitted by coordinating institution of an application for a consortium arrangement only), identifies the participating institutions in each consortium arrangement and their funding requests. Part III: Institutional Mission, dealing with sources of students, students characteristics, career opportunities for graduates, present institutional mission and goals in historical perspective, and means of assessing attainment. Part IV: Program Narrative, identifies status of applicant's development efforts, and identifies problems addressed in application, objectives to be achieved, implementation strategies, evaluation strategies and measures for each activity proposed, and administrative procedures. Part V: Continuation of Funds, showing sources of additional funds necessary for any activity extending beyond the expiration of SDIP funding. Part VI: Program Budget, showing for each activity the estimated costs of personnel, travel, equipment, supplies, contractual services and other items allocated to institutional and Federal contributions. Part VII: Institutional Assurances, indicating compliance with regulations and guidelines required for receipt of Federal assistance for proposed program.

[FR Doc. 78-19049 Filed 7-10-78; 8:45 am]

[4110-03]

Food and Drug Administration

[NADA 11-804V]

CUTTER LABORATORIES, INC.

Cumol (Cupric Glycinate); Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine is withdrawing approval of a new animal drug application (NADA) for Cumol (Cutter's brand of cupric glycinate), used for prevention of copper deficiency in pastured cattle. The sponsor requested this action.

EFFECTIVE DATE: July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley, Calif. 94710, is the sponsor of NADA 11-804V, which provides for subcutaneous use of an injectable cupric glycinate in pastured cattle for the prevention of copper deficiency resulting from molybdenum poisoning or other copper deficiency. The Food and Drug Administration (FDA) originally approved the application by letter of April 23, 1959.

Subsequently, the drug was the subject of a review by the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC). In the review, which was published in the FEDERAL REGISTER of April 8, 1969 (34 FR 6259), NAS/NRC concluded, and FDA concurred, that the drug is effective for the currently approved use as stated above. The FEDERAL REGISTER publication also stated that the concern in the evaluation was with the drug's effectiveness and safety in the target animal and not with the residues in food products derived from treated animals. Subsequently, FDA informed the firm by letter of January 24, 1978, of the need to evaluate the copper residue depletion rate at the injection site and in the brisket meat. The firm responded by letter of February 21, 1978, that Cumol is no longer being marketed and, in lieu of providing the depletion data, requested that FDA withdraw approval of the NADA and waived the opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 11-804V and all supplements thereto for Cumol (cupric glycinate) is hereby withdrawn, effective July 11, 1978.

Dated: June 22, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-18837 Filed 7-10-78; 8:45 am]

[4110-03]

[Docket No. 77N-0408; DESI 3044]

FLORANTYRONE

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 10-854) for Zanchol tablets containing florantyrone. The drug has been used in the treatment of certain diseases of the gallbladder.

EFFECTIVE DATE: July 21, 1978.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 3044 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the FEDERAL REGISTER of April 7, 1978 (43 FR 14741), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug application for Zanchol tablets. The basis of the proposed order was that the drug product lacks substantial evidence of effectiveness for its labeled indications. Since the holder of the new drug application described below did not contest the proposed action, approval of the new drug application is now being withdrawn.

NDA 10-854; Zanchol, containing florantyrone 250 mg/tablet; Searle Laboratories, Division G. D. Searle & Co., P.O. Box 5110, Chicago, Ill. 60680.

Neither the applicant nor any other person filed a written appearance of election as provided for by the April 7, 1978 notice. The failure to file an apprearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug,

and Cosmetic Act (section 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application 10-854 and all amendments and supplements applying thereto is withdrawn effective July 21, 1978.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: June 28, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-18838 Filed 7-10-78; 8:45 am]

[4110-87]

Public Health Service

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH FIELD RESEARCH PROJECTS

Projects To Be Initiated

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of research projects to be initiated.

SUMMARY: This notice announces the field research projects involving the collection of information from the public which are planned for initiation by NIOSH during the remainder of calendar year 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald F. Coene, Director, Office of Program Planning and Evaluation, NIOSH, CDC, 5600 Fishers Lane (Room 8A-09), Rockville, Md. 20857, telephone 301-443-4364.

SUPPLEMENTARY INFORMATION: The NIOSH field research projects described below will be conducted under the authority of section 20 of the Occupational Safety and health act (29 U.S.C. 669) and in accordance with the provisions of Part 85a of Title 42, Code of Federal Regulations. The protocol for the conduct of these types of projects has been reviewed by the Office of Management and Budget and determined to be in compliance with the Federal Reports Act. The list of projects includes the title and (a) purpose of each project, (b) the frequency with which the information will be collected, (c) an indication of types of workers from whom information will be sought, (d) the estimated number of responses and (e) the estimated burden in reporting hours.

1. *Cross-sectional medical study of workers exposed to lead.* (a) Investigation of the possible health effects in workers with low level lead exposure, (b) single time, (c) workers exposed to lead, (d) 800 respondents, (e) 30 minutes manhour burden per response.

2. *Cross-sectional medical study of workers exposed to synthetic estrogens.* (a) Investigation of the possible health effects in workers exposed to synthetic estrogens, (b) single time, (c) workers exposed to synthetic estrogens, (d) 800 respondents, (e) 30 minutes manhour burden per response.

3. *Cross-sectional medical study of workers exposed to carbon disulfide.* (a) Investigation of the possible health effects in workers exposed to low levels of carbon disulfide, (b) single time, (c) workers exposed to carbon disulfide, (d) 600 respondents, (e) 30 minutes manhour burden per response.

4. *Cross-sectional medical study of workers in the painting trades.* (a) Investigation of the possible health effects in workers in the painting trades, (b) single time, (c) workers in the painting trades, (d) 1,300 respondents, (e) 30 minutes manhour burden per response.

5. *Medical and industrial hygiene study of workers exposed to adrenocortical steroids.* (a) Investigation of the possible health effects in workers exposed to adrenocortical steroids, (b) single time, (c) workers exposed to adrenocortical steroids, (d) 600 respondents, (e) 30 minutes manhour burden per response.

6. *Medical and industrial hygiene study of workers exposed to manganese.* (a) Investigation of the possible health effects in workers exposed to manganese at levels which are near the present OSHA standard, (b) single time, (c) workers in manganese mining and processing, (d) 600 respondents, (e) 30 minute manhour burden per response.

7. *Morbidity and industrial hygiene study of cement workers.* (a) Investigation of the possible health effect in workers exposed to cement dust, (b) single time, (c) workers in the cement industry, (d) 1,000 respondents, (e) 30 minutes manhour burden per response.

Six weeks before beginning field work on any of these projects, NIOSH will publish a separate notice in the FEDERAL REGISTER giving specific information on the project.

Dated: July 5, 1978.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-19018 Filed 7-10-78; 8:45 am]

[4110-03]

SCIENCE ADVISORY BOARD

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. app. I)), the Food and Drug Administration announces the renewal of the Science Advisory Board to the National Center for Toxicological Research by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on June 2, 1980, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: July 3, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-18839 Filed 7-10-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13631-781]

SPECIAL PROJECTS GRANT PROGRAM, PROJECTS OF NATIONAL SIGNIFICANCE

Announcement of Availability

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of availability of grant funds for the special projects grant program—projects of nation significance in developmental disabilities.

SUMMARY: The Development Disabilities Office (DDO), Rehabilitation Services Administration, announces that applications will be accepted from applicants wishing to compete for grants in fiscal year 1978 under the special projects grant program—projects of national significance authorized by title I, section 145 of the Developmentally Disabled Assistance and Bill of Rights Act. Pub. L. 94-103, 42 U.S.C. (6001 et. seq.). Regulations ap-

plicable to this program include the Developmental Disabilities Office general regulations, 45 CFR Part 1385, and the regulations governing discretionary grant programs, 45 CFR Part 1387.

DATES: Closing date for receipt of applications is: August 15, 1978.

SCOPE OF THIS ANNOUNCEMENT

The scope of this announcement does not cover the entire special projects grant program, but only those considered projects of national significance.

ELIGIBLE APPLICANTS

Applications may be made by public or private non-profit agencies, organizations, and institutions, including institutions of higher learning.

SPECIAL CONSIDERATION FOR FUNDING

Special consideration for funding specific to a particular program area in which grants will be awarded are described under the relevant project areas. These special considerations will be made by the Commissioner of Rehabilitation Services Administration in the final selection and award process.

PROGRAM PURPOSE

The special projects grant program, as authorized in section 145(a) of Pub. L. 94–103, enables the Developmental Disabilities Office to award grants for the following purposes:

To demonstrate how to establish programs which will expand or improve services to developmentally disabled (DD) persons,
To increase public awareness and public eduction programs,
To coordinate and use available community services,
To demonstrate services for economically disadvantaged developmental disabled persons,
To provide technical assistance,
To train personnel,
To develop new techniques for the provisions of services, and
To gather and disseminate information.

For the purpose of this program announcement, projects of national significance must—

1. Be designed to have a direct impact on developmental disabilities programs throughout the country;
2. Have an objective or objectives, which if achieved, could be replicated, could result in an improved delivery system for developmental disabilities services; or could affect national policies and/or standards; or
3. Involve activities to be conducted in a number of sites in various parts of the country as part of a unified program.

PROGRAM OBJECTIVES AND PROJECT INFORMATION

The objectives for the special projects grant program, projects of national significance are—

1. To strengthen and assist the State developmental disabilities protection and advocacy agencies;
2. To assist the State developmental disabilities councils and other agencies to further their deinstitutionalization planning and implementation;
3. To strengthen the national network of developmental disabilities university affiliated programs and related agencies; and
4. To improve the quality of dein- stitutionalization efforts.

In order to carry out these objectives, the DDO will award grants to conduct the following types of project areas:

Project area No. 1: Management training of the key staff of the developmental disabilities State protection and advocacy (P&A) agencies. The purpose of this project is to provide training and technical assistance in program management and administration to State P&A agency staff. the focus will be management training for executive and key staff responsible for directing and implementing statewide protection and advocacy systems for persons with developmental disabilities.

Topics shall include management procedures, report preparation, accounting systems, personnel, training, the progress reporting system, data gathering, program coordination and linkage development. Relates to objective No. 1.

It is estimated that one grant for approximately $100,000 will be awarded.

Project area No. 2: Training and technical assistance to State protection and advocacy agencies in citizen advocacy, systems advocacy, and self-advocacy approaches. The purpose of this project will be to provide a national cadre of trained citizen/consumer advocates to assist statewide P&A agencies in providing across-the-board advocacy service; to collect and develop citizen/consumer advocacy materials and to adapt them as aids in advocacy training; to help structure and establish formal relationships in P&A agencies that clearly define the roles and tasks of citizen/consumer advocates, and to assist P&A agencies in developing and utilizing nonprofessional and paraprofessional advocacy aids. Relates to objective No. 1.

It is estimated that one grant for approximately $200,000 will be awarded.

Project area No. 3: Training and technical assistance in legal advocacy to State DD protection and advocacy agencies. The purpose of this project is to provide to State protection and advocacy agencies training and technical assistance in legal aspects of advocacy on behalf of DD persons. Relates to objective No. 1.

It is estimated that two grants for approximately $260,000 each will be awarded.

Special considerations for funding.— Applicants with expertise in legal advocacy on a national scope will receive special consideration.

Project Area No. 4: Development of public awareness materials and media for national distribution or replication concerning human rights and advocacy activities for the developmentally disabled. The purpose of this project is to develop the materials, both for printed and electronic media, for localities and States to conduct public information campaigns on the rights of DD persons and the services offered by P&A agencies. Related to objective No. 1.

It is estimated that one grant for approximately $250,000 will be awarded.

Special considerations for funding.— Applicants with expertise in the development of public information materials in the field of developmental disablitities will receive priority consideration.

Project area No. 5: Technical assistance to those States needing assistance in planning for deinstitutionalization implementation. The purpose of this project is to acquaint State and local officials with all the essential processes necessary to implement dein- stitutionalization activities, and their roles and responsibilities within those processes.

The project will provide technical expertise to States and localities in developing systematic and effective strategies to effect dein- stitutionalization programs. Relates to objective No. 2.

It is estimated that one grant for approximately $100,000 will be awarded.

Special considerations for funding.— Applicants who develop written arrangements or agreements which would enable them to coordinate deinstitutionalization planning activities with all or portions of the following organizations will be given special consideration: National League of Cities; National Conférence of State Legislatures; U.S. Governors' Conference; National Association of Counties; and State and local government officials, as well as State Developmental disabilities planning councils and other responsible State agencies.

Project area No. 6: Telecommunications project. The purpose of this project is to conduct a study and select demonstrations aimed at strengthening the training and services capabilities of the developmental disabilities university affiliated programs, planned UAP satellite centers, research amd training centers, rehabilitation engineering centers, mental retardation research centers and other agencies which serve the developmentally disabled by using the full range of existing telecommunication systems. For purposes of this study, telecommunications may include: telephones, radio broadcast and cable television, communications, satellite mi-

crowave and computer networks ($300,000 of total project funds for study). Relates to objective No. 3.

It is estimated that one grant for approximately $1.5 million will be awarded.

Special considerations for funding.— Priority will be given to those applicants with the following qualifications—

1. Expertise in the field of telecommunications and human service applications;
2. Experience in need analysis, information systems, cost analysis, short and long-range planning;
3. Capability of defining the software programing needs of the demonstration;
4. Demonstrated ability to coordinate with a wide range of government agencies; and
5. Willingness to work with the Association of University Affiliated Facilities to expedite the survey of their 47 member agencies plus associated facilities.

Project are No. 7: Quality of life project. The purpose of this project is to write a handbook for citizen advocates on "How to Assist a Developmentally Disabled Adult to Achieve Full Participation in Community Leisure Time Activities." The purpose of the handbook is to emphasize free or inexpensive individualized activities.

It is estimated that two grants for approximately $25,000 each will be awarded.

Special considerations for funding.— Developmental disabilities consumer groups and/or applicants who include utilization of an advisory group made up of disabled adults will receive priority.

Project area No. 8: Career ladder training project. The purpose of this project is to develop the curriculum for paraprofessional human service workers in the community based developmental disabilities services support systems, demonstrate the capability to insure that State civil service systems develop job classification, and show university or 2-year community/junior college cooperation in acceptance of "credential" as credit toward college requirements.

DDO is particularly interested in receiving grant applications which address training staff employed in State mental retardation institutions.

It is estimated that one grant for approximately $150,000 will be awarded.

Special considerations for funding.— Applicants who have obtained written commitments of cooperation from labor unions whose members are employed in State mental retardation institutions.

Project area No. 9: Development of plan to assist developmentally disabled—emotionally disturbed persons now residing in State psychiatric facilities to be returned to community based alternative programs. The purpose of this project is to develop innovative means of linking services of the State psychiatric facilities with the mental retardation/developmental disabilities system so that those persons being inappropriately kept in psychiatric facilities may be returned to less restrictive settings. Relates to objective No. 4.

It is estimated that one grant for approximately $100,000 will be awarded.

Special considerations for funding.— Applications from psychiatric/mental health service providers will be given priority consideration.

Project area No. 10: Technical assistance to developmental disabilities consumer groups wishing to receive help in starting "people first" or a similar statewide DD consumer movement. The purpose of this project is to provide technical assistance to groups of DD consumers who are interested in forming a statewide organization which will promote the expansion of organized efforts of DD persons to advocate on their own behalf. Relates to objective No. 4.

It is estimated that one grant for approximately $75,000 will be awarded.

Special considerations for funding. Priority will be give to those applicants with experience in starting such consumer groups.

Project area No. 11: Management development training for State DD council staff. The purpose of this project is to provide management skills training to State DD council staff. Topics shall include: Leadership, time management, management by objectives (MBO), communication, coordination, negotiation, marshalling resources, evaluation, program monitoring, setting priorities, problem solving, interpretation of data, conducting effective meetings, labor relations and other common management skills and techniques. Relates to objectve No. 2.

It is estimated that one grant for approximately $100,000 will be awarded.

Special considerations for funding.— Applicants with experience in the developmental disabilities field, including university affiliated training centers, will receive special consideration.

Project area No. 12: Respite care model and parent training services for families of DD persons. The purpose of this project is to demonstrate the effectiveness of a flexible system of respite care and parent training services to increase the capabilities for natural and foster parents to cope with their DD family members in the home. Relates to objective No. 4. It is estimated that one grant for approximately $100,000 will be awarded.

AVAILABLE FUNDS

The Developmental Disabilities Office has been appropriated a total of $18,496,000 to support the special projects grant program in fiscal year 1978. DDO will competitively award $3,050,000 to support new projects of national significance of the special projects grant program under this grant announcement. A new grant is the initial grant made in support of a project for this program. Projects will be supported for a period of one year.

GRANTEE SHARE OF PROJECT

Grantees will be required to provide at least ten (10) percent of the total project costs. Non-Federal share of projects may come in the form of cash or in-kind contributions. Please refer to HEW regulation 45 CFR Part 74—Administration of Grants (see 38 FR 26274, September 19, 1973) which is included in the application kit.

APPLICATION PROCESS

AVAILABILITY OF FORMS

In order to be considered for a grant under the developmental disabilities projects of national significance program, all applications must be submitted on standard forms provided for this purpose and in accordance with the guidelines established. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award including the regulations for special projects grant program—projects of national significance.

Please specify which project(s) are contemplated so that more detailed information may be forwarded.

Application kits which contain the prescribed application forms and further information for the applicant may be obtained by writing: Division of Research and Development, Developmental Disabilites Office, RSA, OHDS, Department of Health, Education, and Welfare, Room 3413 Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0072, Attention: 13631-781.

APPLICATION SUBMISSION

An application for a grant in any project area must be submitted separately. Eligible agencies may apply on separate applications for as many activities as they feel competent to carry out responsibly.

One signed original and one copy of the grant application, including all attachments, are required. In addition, for those grant activities planned to be carried out in any one State to ensure that the proposed activity is consistent with the goals and objectives of that State's DD plan, concurrently, one (1) copy of the application is to be submitted to the appropriate State planning council for review and comment. One (1) copy should also be submitted to the appropriate Regional Director of the Developmental Disabilities Office for review and comment. See list for addresses of DHEW regional offices in application kit.

A-95 NOTIFICATION PROCESS

Projects of national significance are not covered under the A-95 clearinghouse requirements.

APPLICATION CONSIDERATION

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award.

All accepted grant applications are subject to a competitive review and evaluation conducted by employees independent of the program office with expertise in the specific areas being addressed or clearly related program areas.

Final decisions on awards will be made by the Commissioner of the Rehabilitation Services Administration. The Commissioner's decision takes into account the special considerations for funding described under each project area in addition to recommendations resulting from the competitive review by the panel members, the comments by the State planning council, and the HEW Regional Directors of DD, as well as any others qualified to give advice.

The Commissioner of Rehabilitation Services Administration makes grant awards consistent with the purpose of the act, the regulations, and program announcements with the limits of Federal funds available. The official grant award document is the notice of grant awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants will be notified in writing of that decision.

CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated against the following criteria:

1. *Quality of the application* (20 points). The description of the purposes and objectives of the grant activities, the major tasks to be accomplished, and difficulties likely to be encountered are clearly stated and show that the applicant has a thorough understanding of the DD program and the particular aspect of the DD program the project addresses. The extent to which the project is National in scope and/or subject to nationwide replicability should be clearly presented. Applications may deviate somewhat from the announcement if adequate justification and rationale for the differences are presented.

2. *Technical approach and methodology* (30 points). The proposed procedures and methodology for the project should be of high quality and technically sound. The methodology should be consistent with the applicant's stated purposes and objectives and show how the anticipated results of the project will be orderly and systematically achieved. Timetables for completion of the project should be definitive and realistic. Applications should also include a discussion of how the procedures and results of the project will be evaluated.

3. *Applicant qualifications* (30 points). Qualifications and professional experience of staff should be appropriate and adequate to fulfill their proposed rules and functions. The facilities and resources available to the project should be adequate for fulfilling the objectives of the project. Applications should be accompanied by letters of support from agencies and organizations whose interests and/or responsibilities are relevant to the purposes of the proposed project.

4. *Relevance of project objectives to program goals* (10 points). The objectives of the project should be clearly delineated. The discussion of the objectives should articulate the relevance of the project objectives to the objectives of the special projects grant program—projects of national significance, and how the results of the proposed project will contribute to the achievement of those objectives.

5. *Budget* (10 points). The proposed budget should be realistic, reasonable, and justifiable in terms of the project activities. If project costs are not within the range described in the program announcement, sufficient explanation should be provided to justify the discrepancies. Applications should include discussions of the feasibility and propriety of continuing the project after Federal funding ends, and plans for securing financial support, if appropriate.

CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is August 15, 1978. Applications may be mailed or hand delivered to: Receiving Office, Division of Grants and Contracts Management, Office of Human Development Services, Department of Health, Education, and Welfare, 330 "C" Street SW., Room 1427, Washington, D.C. 20201, Attention: 13631-781. An application will be considered to have arrived by the closing date if:

1. The application is at the Office of Human Development Services' receiving office on or before the closing date, or

2. The application is postmarked by the U.S. Postal Service at least 2 days prior to the closing date of August 15, 1978.

Late applications will not be accepted and applicants will be notified accordingly.

(Catalog of Federal Domestic Assistance Program Number 13.631—Special Projects Grant Program, DDO.)

Dated: June 28, 1978.

FRANCIS X. LYNCH,
Director, Developmental Disabilities Office.

ROBERT R. HUMPHREYS,
Commissioner, Rehabilitation Services Administration.

Approved: July 5, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-19027 Filed 7-10-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

ALASKA NATIVE ALLOTMENTS

Purpose. The purpose of this notice is to suspend action pending reconsideration of the Department's policy that the 5 years occupancy required under the Alaska Native Allotment Act (34 Stat. 197, as amended) must be completed prior to a withdrawal of the land.

Policy. (a) Prior to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601-1629) (ANCSA), one way for Alaska Natives to get title to public land was under the Act of May 17, 1906 (34 Stat. 197, as amended) known popularly as the Alaska Native Allotment Act. Although ANCSA expressly repealed the 1906 Allotment Act, it specifically preserved claims pending on the date of repeal. Several thousand applications were pending at that time.

(b) In 1973, the Department adopted a policy that the five-year occupancy requirement for a Native allotment must be completed prior to a withdrawal of the land. This policy resulted in the denial of many applications. Several lawsuits have been filed and are pending against the Department.

(c) Because of the understandable concern of the Natives, I have decided to review, with the Solicitor, this policy of requiring the full 5 years of occupancy to have been completed prior to a withdrawal.

(d) All interested parties are given 30 days from the date of this notice to submit to the Solicitor any written comments on the policy under reconsideration. Comments should be sent to the Associate Solicitor, Indian Affairs, Office of the Solicitor, Department of Interior, Washington, D.C. 20240.

Effective date. This notice is effective immediately and will continue in effect for 60 days.

Dated: July 3, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-19035 Filed 7-10-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before June 30, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by July 21, 1978.

CHARLES HERRINGTON,
Acting Keeper of the National Register.

ARIZONA

Yavapai County

Prescott, *Prescott Historic Resources,* U.S. 89.

CONNECTICUT

Fairfield County

Bridgeport, *Block Historic District,* Fairfield Ave., Main, Middle, and Wall Sts.

Hartford County

Hartford, *Frog Hollow,* roughly bounded by Park River, Capitol Ave., Oak, Washington, Madison Sts., and Park Ter.

Windham County

Scotland vicinity, *Waldo, Edward, House,* S of Scotland on Waldo Rd. (also in New London County).

GEORGIA

Clarke County

Athens, *Cobbham Historic District,* roughly bounded by Prince Ave., Hill, Reese, and Pope Sts.
Athens, *Downtown Athens Historic District,* roughly bounded by Hancock Ave., Foundry, Mitchell, Broad, and Lumpkin Sts.

Walton County

Monroe, *Felker, John, House,* 432 S. Broad St.

GUAM

Merizo vicinity, *Asmaile Point,* 4 mi. (6.4 km) E of Merizo off GU 4.
Umatac vicinity, *Machadgan Point,* SW of Umatac.

IDAHO

Ada County

Boise, *State Street Historic District,* State, Jefferson, 2d, and 3d Sts.
Boise vicinity, *Bown, Joseph, House,* 2020 E. Victory Rd.

Idaho County

Cottonwood vicinity, *St. Gertrude's Convent and Chapel,* W of Cottonwood.

Nez Perce County

Lewiston vicinity, *Twenty-one Ranchhouse,* S of Lewiston at 7570 Waha Rd.

ILLINOIS

Cook County

Chicago, *First Presbyterian Church of Chicago,* 6400 S. Kimbark Ave.

KENTUCKY

Hardin County

Sonora vicinity, *Bland Cave,* W of Sonora.

Jefferson County

Louisville, *Louisville Male High School,* 911 S. Brook St.

Pulaski County

Somerset, *Perkins, Dr. John Milton, House,* 109 N. Main St.

MAINE

Waldo County

Belfast, *Church Street Historic District,* irregular pattern along Church St. from High to Franklin Sts.

MISSISSIPPI

Adams County

Natchez, *Linden,* 1 Linden Pl.

MONTANA

Flathead County

Kalispell, *Conrad Barn,* 244 Woodland Ave.

NEVADA

Carson City (independent city)

Carson City Post Office, 401 N. Carson St.
Second RR. Car No. 21, 2180 S. Carson St.

Washoe County

Reno, *Odd Fellows Building,* 133 N. Sierra St.

NEW HAMPSHIRE

Grafton County

Ashland, *Whipple House,* 4 Pleasant St.

Rockingham County

Sandown, *Sandown Old Meetinghouse,* Fremont Rd.

OHIO

Ashtabula County

Austinburg, *Congregational Church of Austinburg,* OH 307.

Athens County

Athens, *Ohio University Campus Green Historic District,* Ohio University campus.

Crawford County

Leesville, *Leesville Village Historic Resources* (partial inventory), OH 598 and Leesville Rd.

Cuyahoga County

Cleveland Heights, *East Cleveland District Nine School,* 14391 Superior Rd.

Guernsey County

Claysville vicinity, *Claysville School,* N of Claysville on SR 15.

Highland County

Hillsboro, *Highland County Courthouse,* Main and High Sts.

Licking County

Granville vicinity, *Stanbery, Edwin, Office,* 1 mi. (1.6 km) E of Granville.
Newark vicinity, *Upland Farm,* N of Newark off OH 657.

Lorain County

Oberlin, *Christ Episcopal Church,* 156 S. Main St.
Oberlin vicinity, *Reamer Barn,* W of Oberlin.
Vermilion vicinity, *Brownhelm Historic District,* SE of Vermilion along N. Ridge Rd.
Wellington, *Old St. Patrick's Church,* 512 N. Main St.
Wellington, *Wellington Historic District,* irregular pattern along Main St. from Kelley St. S. to W&LE RR.

Mahoning County

Alliance vicinity, *Alliance Clay Product Company,* 1500 S. Mahoning Ave.

Mercer County

Celina, *Riley, Calvin E., House,* 130 E. Market St.

Montgomery County

Dayton, *Dayton Daily News Building,* 4th and Ludlow Sts.
Dayton, *Woodland Cemetery Gateway, Chapel and Office,* 118 Woodland Ave.

Morrow County

Cardington, *Exchange Hotel,* W. Main St.

Muskingum County

Dresden, *Dresden Suspension Bridge,* OH 208 and OH 666.

Richland County

Mansfield, *Mayflower Memorial Congregational Church,* 168 Buckingham St.
Shelby, *Most Pure Heart of Mary Church,* West St. and Raymond Ave.

Ross County

Chillicothe, *Grandview Cemetery,* 240 S. Walnut St.

Shelby County

New Bern vicinity, *Turtle Creek Culvert and Embankment,* W of New Bern.

Trumbull County

Kinsman, *Kinsman Historic District,* irregular pattern along Main St. and State Rd.

Wayne County

Wooster, *Wooster Public Square Historic District,* Market and Liberty Sts.

RHODE ISLAND

Kent County

Coventry Center vicinity, *Rice City Historic District*, W of Coventry Center at RI 14 and RI 117.
Crompton, *St. Mary's Church and Cemetery*, Church St.
West Greenwich Center, *West Greenwich Baptist Church and Cemetery*, Plain Meetinghouse and Liberty Hill Rds.
West Warwick, *Crompton Free Library*, Main St.

Providence County

Cranston, *Rhodes-on-the-Pawtuxet Ballroom and Gazebo*, Rhodes Pl.
Cumberland Hill vicinity, *Arnold Mills Historic District*, E of Cumberland Hill at Sneech Pond, N. Attleboro, and Abbott Run Valley Rds.
Pawtucket, *Crandall, Lorenzo, House*, 221 High St.
Pawtucket, *Modern Diner*, 13 Dexter St.
Providence, *Swan Point Cemetery*, 585 Blackstone Blvd. (boundary increase).

Washington County

Arcadia vicinity, *Baptist Church in Exeter*, N of Arcadia on RI 165.

VIRGINIA

Lancaster County

Lively vicinity, *Fox Hill Plantation*, SW of Lively off VA 201.

Middlesex County

Saluda, *Middlesex County Courthouse*, jct. U.S. 17/VA 33 and VA 618.

Page County

Luray vicinity, *Heiston-Strickler House*, NW of Luray off VA 675.

Petersburg (independent city)

Petersburg City Hall, 129-141 N. Union St. HABS.

WASHINGTON

Clallam County

Calallam Bay vicinity, *Slip Point Light Station Keeper's House*, NE of Clallam Bay.

WISCONSIN

Oconto County

Lakewood vicinity, *Holt and Balcom Logging Camp No. 1*, E of Lakewood.

[FR Doc. 78-18896 Filed 7-10-78; 8:45 am]

[4310-02]

Bureau of Indian Affairs

SAN CARLOS IRRIGATION PROJECT, ARIZ.

Fiscal Year Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public notice.

SUMMARY: The purpose of this public notice is to change the per acre assessment rate for the operation and maintenance of the irrigation facilities of the joint works of the San Carlos Irrigation Project to properly reflect the cost of labor, materials, equipment and services. The change is from $8.53 to $9.57 per acre per year.

This public notice will replace §221.63 of Part 221, chapter 1, subchapter T of title 25 of the Code of Federal Regulations, which is being deleted by a final rule to be published simultaneously with this public notice.

EFFECTIVE DATE: This public notice shall become effective July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

James L. McCabe, Project Engineer, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Ariz. 85228, 602-723-5439.

SUPPLEMENTARY INFORMATION: An analysis of the costs of operation and maintenance of the joint works of the San Carlos Irrigation Project was made and on May 16, 1978, was presented to the fact finding committee which is made up of representatives from the San Carlos Irrigation and Drainage District, San Carlos Irrigation Project, Gila River Indian Community, Pima Agency, and the Phoenix area office. There was no objection to increase in the assessment rate.

Pursuant to §191.1(e) of Part 191, chapter 1, subchapter R of title 25 of the Code of Federal Regulations, this public notice is issued by authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The principal author of this document is Cecil A. Wright, Bureau of Indian Affairs, Phoenix, Ariz. 85011, telephone 602-261-4184. The authority to issue this regulation is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 385.

The Public Notice shall read as follows:

SAN CARLOS IRRIGATION PROJECT

ASSESSMENT, JOINT WORKS

Pursuant to the act of Congress approved June 7, 1942 (43 Stat. 476), and supplementary acts, the repayment contract of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1938, the cost of the operation and maintenance of the joint works of the San Carlos Irrigation Project for the fiscal year 1980 is estimated to be $957,000 and the rate of assessment for the said fiscal year and subsequent fiscal years until further order, is hereby fixed at $9.57 for each acre of land.

NOTE.—It is hereby certified that the economic and inflationay impacts of this public notice have been evaluated in accordance with Executive Order 11821.

HAROLD D. ROBERSON,
Acting Assistant Area Director.

[FR Doc. 78-19031 Filed 7-10-78; 8:45 am]

[4310-09]

Bureau of Reclamation

WESTLANDS WATER DISTRICT NEGOTIATIONS

Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to begin negotiations with Westlands Water District, San Luis Unit, Central Valley Project, Calif., for an amended contract(s) for repayment of project costs and water service.

SUMMARY: The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations with the Westlands Water District which will result in contract terms and conditions concerning water supply, water rates, water rate adjustment procedures, distribution system repayment, drainage service repayment, and any other items which are or will be required to comply with Pub. L. 95-46, an act which authorized appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley Project, Calif., and for other purposes, dated June 15, 1977, and Pub. L. 86-488, and act which authorized the Secretary of the Interior to construct the San Luis Unit of the Central Valley Project, Calif. Contract terms and conditions will generally be written pursuant to the Reclamation Project Act of 1939, Pub. L. 76-260. The initial meeting has been set for July 12, 1978, at 9 a.m. at the Water Tree Inn, 4141 North Blackstone Avenue, Fresno, Calif. 93726.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Budd, Repayment Specialist, Division of Water and Land Operations, Bureau of Reclamation, Sacramento, Calif. 95825, 916-484-4380.

Dated: July 6, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-19145 Filed 7-10-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Wyoming 64376]

WYOMING

Notice of Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 29 N., R. 113 W.,
Sec. 32, S½NE¼ and N½SE¼;
Sec. 33, N½SW¼.

The pipeline will transport natural gas from a point in the SE¼NE¼, sec. 32, to a point in the NE¼SW¼, sec. 33, all within T. 29 N., R. 113 W., in Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

MARLA B. BOHL,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-18997 Filed 7-10-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-48]

CERTAIN ALTERNATING PRESSURE PADS

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in connection with the above-styled investigation at 10 a.m. on September 7, 1978, in the hearing room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. No discovery will be obtained subsequent to August 17, 1978. On or before August 28, 1978, complainant will have completed service of its prehearing conference statement on the other parties, and respondents and Commission investigative attorney will have completed service of their prehearing conference statements on or before September 5, 1978. the contents of these statements will be the subject of a subsequent order. The purpose of this prehearing conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 10 a.m. on September 13, 1978, in the hearing room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C., or at 10 a.m. on a date as soon after as practicable, and will continue daily until completed. Counsel shall be ready to proceed on September 13, 1978, subject to at least 48-hour advance oral notification of the hearing's commencement.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this notice in the FEDERAL REGISTER.

Issued July 5, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-19103 Filed 7-10-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-43]

CERTAIN CENTRIFUGAL TRASH PUMPS

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in connection with the above styled investigation at 10 a.m. on August 10, 1978, in the hearing room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. No discovery will be obtained subsequent to July 26, 1978. On or before August 3, 1978, complainant will have completed service of its prehearing conference statement on the other parties, and respondents and Commission investigative attorney will have completed service of their prehearing conference statements on or before August 8, 1978. The contents of these statements will be the subject of a subsequent order. The purpose of this prehearing conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 10 a.m. on August 15, 1978, in the hearing room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C., or at 10 a.m. on a date as soon after as practicable, and will continue daily until completed. Counsel shall be ready to proceed on August 15, 1978, subject to at least 48-hour advance oral notification of the hearing's commencement.

The Secretary shall serve a copy of this notice upon all parties of record, and shall publish this notice in the FEDERAL REGISTER.

Issued July 5, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-19101 Filed 7-10-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-55]

CERTAIN NOVELTY GLASSES

Investigation

Notice is hereby given that on May 25, 1978, and June 14, 1978, Howw Manufacturing, Inc. and Plus Four, Inc. (complainants), both located at 504 East St. Charles Road, Carol Stream, Ill. 60687, filed a complaint and amendment thereto with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). The complaint alleges unfair methods of competition and unfair acts in the unauthorized importation and sale of certain novelty glasses, by reason of the following:

(1) the alleged violation of the trademarks "On the Rocks," "Jackpot," "Roulette," "Big Six," and "Craps" which are allegedly common law trademarks owned by the complainants;

(2) the alleged unlawful copying of trade dress and packaging associated with the novelty glasses produced and sold by the complainants; and

(3) the alleged unlawful importation, sale, and offers for sale of novelty glasses bearing false designations of origin.

The complaint alleges that such unfair methods of competition have the effect or tendency to destroy or substantially injure an industry efficiently and economically operated in the United States.

Complainants request a temporary exclusion order and a permanent exclusion order against novelty glasses which infringe its trademarks, which falsely designate origin, and which copy its trade dress.

Having considered the complaint, the U.S. International Trade Commission on June 30, 1978, ordered:

1. That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is, or there is reason to believe there is, a violation of subsection (a) of this section in the unauthorized importation of certain novelty glasses into the United States, or in their subsequent sale by reason of:

(1) the alleged violation of the complainants' common law trademark "On the

Rocks," "Jackpot," "Craps," "Roulette," and "Big Six"

(2) the alleged unlawful copying of trade dress and packaging associated with the novelty glasses produced and sold by the complainants which are the subject of this investigation; and

(3) the alleged unlawful importation, sale and offers for sale of novelty glasses bearing false designations of origin,

the effect or tendency of which is to destroy or substantially injure an industry efficiently and economically operated, in the United States.

2. That, for the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainants are Howw Manufacturing, Inc., and Plus Four, Inc., 504 East St. Charles Road, Carol Stream, Ill. 60687;

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complainants and this notice are to be served:

(1) Yau Tak Ind., Ltd., 58 Kwai Cheong Road, Kwai Cheong, Tsuen Won, Kowloon, Hong Kong.

(2) C. Y. Trading Co., 69 Peking Road, Tsimshutsui, Kowloon, Hong Kong; and

(c) Steven David Moskowitz, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

3. That, for the purpose of the investigation so instituted, appointment of a presiding officer is referred to Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, for assignment to himself or to another Commission Administrative Law Judge.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of business confidential information, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

By Order of the Commission.

Issued: July 5, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-191000 Filed 7-10-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-53]

CERTAIN SWIVEL HOOKS AND MOUNTING BRACKETS

Notice of Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 2 p.m., on Thursday July 27, 1978 in room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on June 14, 1978 (43 FR 25743). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued July 5, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-19104 Filed 7-10-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistant Administration

PATROL OPERATIONS

Resolicitation

The National Institute of Law Enforcement and Criminal Justice announces the extension of the submission date for grant applications to conduct an evaluation of a program to manage patrol operations.

The primary goals of the evaluation program are:

1. To assess the usefulness of a set of analytic techniques and a training program for identifying and defining patrol performance objectives and patrol strategies to meet those objectives.

2. To determine the degree to which the execution of these patrol strategies leads to the achievement of performance objectives.

3. To identify and describe the factors which hinder and facilitate successful implementation of the program.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than July 21, 1978. All grants are planned for award in October, 1978 with funding support not to exceed $425,000 or 24 months in duration for individual grants. Because this is a research grant program, profit making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Phillip Travers, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3824.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-19042 Filed 7-10-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

INDIAN AND NATIVE AMERICAN PROGRAMS

Prime Sponsors Under Sections 302 and 304 of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of additional allocations in the amount of $1.1 million to Indian and Native American prime sponsors under title III of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, for use in the fiscal year 1978 summer program for economically disadvantaged youth (SPEDY).

FOR FURTHER INFORMATION CONTACT:

Herman E. Narcho, Chief, Policy, Program Design, and Administration, Division of Indian and Native American Programs, Office of Na-

tional Programs, 601 D Street NW., Room 6414, Washington, D.C. 20213, telephone 202-376-7279.

Division of Indian and Native American programs

Prime sponsor	Summer increase
Alabama:	
Creek Nation East of Mississippi Inc	
Alaska:	
Alaska Federation of Natives, Inc	$5,859
Aleutian/Pribilof Islands Association	3,474
Bristol Bay Native Association	7,537
Cook Inlet Native Association	2,041
Copper River Native Association	961
DENA AKA Corp	9,704
Kawerak Inc	9,849
Kodiak Area Native Association	2,412
Mauneluk Association	6,303
Metlakatla Indian Community	2,059
North Pacific Rim	2,050
Tlingit & Haida Council	18,973
Yupiktak Bista, Inc	24,859
American Indian Association of Tucson, Inc	
Arizona Indian Centers, Inc	
Colorado River Indian Tribes	3,337
Gila River Indian Community	16,778
Hopi Tribal Council	13,722
Indian Development District of Arizona, Inc	6,304
Navajo Nation	295,848
The Papago Tribe of Arizona	30,092
Phoenix Indian Center, Inc	
Salt River Pima-Maricopa Indian Community	5,641
San Carolos Apache Tribe	11,427
White Mountain Apache Tribe	14,728
California:	
Americans for Indians Future and Traditions, Inc	
Candelaria American Indian Council	
Hoopa Valley Business Council	3,274
Indian Center of San Jose, Inc	
California Indian Manpower consortium	17,367
Orange County Indian Center, Inc	
Region IX American Indian Council	
Sacramento Indian Center, Inc	
Tribal American Consulting Corp	
Tri-County Indian Development Council, Inc	680
Ya-Ka-Ama Indian Education and Development, Inc	
Colorado:	
Denver Native American United	
Colorado Division of Labor & Employment Training Services	2,140
Ute Mountain Indian Tribe	2,630
Connecticut:	
American Indians for Development, Inc	
Delaware:	
Office of CETA Planning and Administration	
Florida:	
Council on Indian Affairs	
Miccosukee Corp	716
Seminole Tribe of Florida	2,404
Georgia:	
State Commission of Indian Affairs	
Hawaii:	
Alu Like, Incl	
Department of Labor and Industrial Relations	
Idaho:	
Nez Perce Tribe	3,084
Idaho Inter-Tribal Policy Board	7,518
Illinois:	
American Indian Businessmen's Association	
Kansas:	
United Tribes of Kansas & Southeast Nebraska	3,455
Mid America All Indian Center	
Louisiana:	
Inter-Tribal Council of Louisiana, Inc	1,034
Maine:	
Tribal Governors, Inc	1,941
Maryland:	

Division of Indian and Native American programs—Continued

Prime sponsor	Summer increase
Mayor's Office of Manpower Resources	
Massachusetts:	
Boston Indian Council, Inc	
Department of Manpower Development	
Michigan:	
Grand Rapids Inter-Tribal Council	
Inter-Tribal Council of Michigan, Inc	4,453
Michigan Indian Manpower consortium	
North American Indian Association of Detroit	
Sault Ste. Marie Tribe of Chippewa Indians	254
Minnesota:	
American Indian Fellowship Association	517
Bois Forte Reservation Business Committee	1,723
Fond Du Lac Reservation Business Committee	1,360
Minnesota:	
Leech Lake Reservation Business Committee	6,884
Mille Lacs Reservation Business Committee	1,796
Minneapolis' Regional Native American Center	880
Red Lake Tribal Council	8,099
White Earth Reservation Business Committee	5,850
Mississippi:	
Mississippi Band of Choctaw Indians	7,745
Missouri:	
Region VII American Indian Council, Inc	
Montana:	
Assiniboine and Sioux Tribes	9,015
Blackfeet Tribal Business Council	11,990
Confederated Salish and Kootenai Tribes	6,693
Crow Indian Tribe	8,616
Fort Belknap Community Council	3,111
Montana United Indian Association	
Northern Cheyenne Tribe	5,859
Chippewa-Cree Tribe	3,201
Nebraska:	
Nebraska Indian Inter-Tribal Development Corp	4,971
Omaha Tribe of Nebraska	3,056
Santee Sioux Tribe of Nebraska	825
United Indians of Nebraska	
Nevada:	
Inter-Tribal Council of Nevada	10,474
Las Vegas Indian Center	
New Jersey:	
New Jersey Department of Labor and Industry	
New Mexico:	
All Indian Pueblo Council	47,985
Pueblo of Laguna	9,768
National Indian Youth Council	
Ramah Navajo School Board, Inc	2,766
Zuni Tribal Council	11,980
New York:	
American Indian Community House, Inc	988
St. Regis Mohawk Tribe	4,235
Seneca Nation of Indians	10,285
Native American Manpower, Inc	
North Carolina:	
Eastern Band of Cherokee Indians	10,956
Lumbee Regional Development Association	
North Carolina Commission of Indian Affairs	
North Dakota:	
Devil's Lake Sioux Tribe	4,934
Three Affiliated Tribes	5,958
Turtle Mountain Band of Chippewa Indians	15,010
Standing Rock Sioux Tribe	13,305
United Tribes Educational Technical Center	
Ohio:	
Office of Manpower Development	

Division of Indian and Native American programs—Continued

Prime sponsor	Summer increase
Oklahoma:	
American Indian Training and Employment Program	
Central Tribes of the Shawnee Area, Inc	12,797
Cherokee Nation of Oklahoma	46,443
Choctaw Nation of Oklahoma	33,103
Chickasaw Nation of Oklahoma	13,577
Comanche Tribe of Oklahoma	6,702
Cheyenne-Arapaho Tribes	13,368
Creek Nation of Oklahoma	50,779
Inter-Tribal Council of Northeast Oklahoma	3,246
Kiowa Tribe of Oklahoma	12,272
North Central Inter-Tribal Council	2,186
Osage Tribal Council	10,421
Ponca Tribe of Indians	3,803
Seminole Nation of Oklahoma	6,815
Tonkawa Tribe of Oklahoma	354
Oregon:	
Confederated Tribes of Warm Springs	6,358
Organization of Forgotten Americans	
Urban Indian Programs	
Pennsylvania:	
Council of Three Rivers	
United American Indians of the Delaware Valley	
Rhode Island:	
Rhode Island Indian Council	
South Carolina:	
Office of the Governor Manpower Division	
South Dakota:	
Cheyenne River Sioux Tribe	9,813
Crow Creek Sioux Tribe	3,256
Lower Brule Sioux Tribe	1,560
Oglala Sioux Tribe	23,435
Rosebud Sioux Tribe	23,209
Sisseton-Wahpetion Sioux Tribe	6,838
United Sioux Tribe of South Dakota Development Corp	
Yankton Sioux Tribe	2,748
Tennessee:	
Department of Employment Security	
USET Inc	
Texas:	
Dallas Inter-Tribal Center	
Indian Employment and Training Service	2,648
Utah:	
Utah Native American Consortium, Inc	100
Ute Indian Tribe	3,192
Virginia:	
Manpower Services Council	209
Washington:	
American Indian Community Center	
CHE-HO-QUI-SHO	5,069
Eastern Washington Indian Consortium	30,282
Northwest Inter-Tribal Council	9,187
Puyallup Tribe	8,344
Seattle Indian Center	
Small Tribes of Western Washington	10,411
Wisconsin:	
Great Lakes Inter-Tribal Council	4,743
Lac Courte Oreilles Band of Lake Superior Chippewa Indians	2,966
Lac du Flambeau consortium	2,612
Menominee Restoration Committee	5,451
Milwaukee Area American Indian Manpower Council	
Oneida Tribe of Indians of Wisconsin, Inc	4,769
St. Croix Tribal Council	1,587
Stockbridge-Munsee Community	1,170
Superior Indian Organization	
Wisconsin Winnebago Business Committee	4,507
Wyoming:	
Shoshone & Arapahoe Joint Business Council	12,892

Signed at Washington, D.C., this 15th day of June 1978.

ALEXANDER S. MACNABB,
Director, Division of Indian and Native American Programs, Office of National Programs.

[FR Doc. 78-19046 Filed 7-10-78; 8:45 am]

[4510]

$63 MILLION SUPPLEMENTAL FOR THE SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH (SPEDY)

More than 93,000 additional summer jobs for economically disadvantaged youth were made available by an allocation of $63 million to States and local governments.

The funds are in addition to $730 million announced in February, which created an estimated 1,072,000 employment opportunities.

The $63 million is part of the fiscal 1978 urgent supplemental appropriation (Pub. L. 95-284) signed by President Carter May 21, and is intended to bring the total number of summer jobs this year to 1,165,000.

Distribution of the additional funds will commence immediately in order that State and local governmental units serving as prime sponsors under the Comprehensive Employment and Training Act (CETA) can hire the extra young people in the shortest possible time.

The summer program for economically disadvantaged youth (SPEDY) employs young people, 14 through 21, for approximately 9 weeks, at an average of 26 hours a week. Participants are paid the minimum wage.

The young workers have jobs in a variety of community projects, serving as recreation leaders, museum aides, lifeguards, clerk-typists, maintenance helpers, and laboratory technicians.

The intention is to give them work experience that will prepare them for future employment and also meet their financial needs.

SPEDY is one of several youth employment and training programs administered by the Employment and Training Administration. Regulations for SPEDY were published on May 19, 1978 (43 FR 21856).

The list of allocations to prime sponsors is attached.

For further information concerning the SPEDY program contact Wilbert Solomon on 202-376-7125; for technical questions concerning the allocations contact Bryan Keilty or Ken Cowden on 202-376-6060.

OFFICE OF ADMINISTRATION AND MANAGEMENT

FISCAL YEAR 1978 SPEDY SUPPLEMENTAL ALLOCATIONS—JUNE 2, 1978

	Allocations
Bridgeport consortium	$135,172
Hartford consortium	175,760
New Haven consortium	146,149
Stamford consortium	59,289
Waterbury City	45,004
Balance of Connecticut	297,933
Connecticut	851,217
Penobscot/Hancock consortium	51,170
Cumberland County	58,643
Balance of Maine	209,624
Kennebeck County	27,932
Maine	341,414
Boston City	231,242
Embrda consortium	110,041
New Bedford consortium	73,257
Hampden County consortium	155,212
Worcester consortium	91,613
Lowell consortium	75,009
Brockton consortium	66,908
Fall River consortium	65,593
Balance of Massachusetts	892,767
Massachusetts	1,911,657
Rockingham/Strafford consortium	51,657
Hillsborough County	56,037
Balance of New Hampshire	81,704
New Hampshire	189,278
Providence City	83,025
Balance of Rhode Island	237,572
Rhode Island	320,597
Vermont statewide consortium	152,204
Vermont	152,204
Region I	3,866,257
Atlantic County	72,050
Bergen County	192,142
Burlington County	82,108
Balance of Camden County	101,666
Camden City	54,257
Cumberland County	46,384
Elizabeth City	43,254
Balance of Essex County	141,565
Gloucester County	48,221
Hudson County consortium	261,391
Balance of Mercer County	42,405
Middlesex County	176,309
Monmouth County	128,831
Morris County	73,533
Newark City	316,205
Ocean County	70,957
Balance of Passaic County	97,134
Paterson City	77,111
Somerset County	32,138
Trenton City	43,011
Balance of Union County	95,221
Balance of New Jersey	117,291
New Jersey	2,313,214
Albany City	38,624
Albany County	30,857
Broome County	56,445
Buffalo City	201,903
Chautauqua consortium	87,141
Chemung County	31,230
Dutchess County	43,998
Erie consortium	128,270
Rochester City	95,889
Balance of Monroe County	53,789
Nassau consortium	289,340
Niagara County	77,531
Oneida County	84,148

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Balance of Onondaga County	54,653
Orange County	55,353
Oswego County	33,420
Rensselaer County	32,506
Rockland County	41,423
St. Lawrence County	33,454
Saratoga County	33,421
Schenectady County	35,880
Steuben County	29,323
Suffolk consortium	275,760
Syracuse City	66,943
Ulster County	41,037
Westchester consortium	181,840
Yonkers City	60,879
Balance of New York	533,189
New York City	2,858,948
New York	5,603,665
Bayamon Municipio	71,325
Caguas Municipio	62,249
Carolina Municipio	50,111
Mayaguez Municipio	45,764
Ponce Municipio	89,493
San Juan consortium	243,452
Balance of Puerto Rico	978,520
Puerto Rico	1,545,924
Virgin Islands	30,583
Virgin Islands	30,583
Region II	9,493,386
Delaware manpower consortium	117,994
Wilmington City	44,688
Delaware	162,682
District of Columbia	512,581
District of Columbia	512,581
Balance of Maryland	111,742
Baltimore consortium	587,356
Montgomery County	61,151
Prince Georges County	113,935
Western Maryland consortium	78,244
Maryland	952,428
Lehigh Valley consortium	90,966
Lancaster consortium	70,749
Bucks County	81,842
Chester County	51,143
Delaware County	113,888
Montgomery County	104,076
Philadelphia City/County	582,806
Berks County	67,664
Balance of Lackawanna County	43,182
Scranton City	35,879
Luzerne County	119,040
Schuylkill consortium	63,459
Erie City	40,792
Balance of Erie County	36,984
Balance of Allegheny County	228,902
Pittsburgh City	242,882
Beaver County	47,045
Washington County	53,569
Westmoreland County	91,265
Tri-County consortium	71,682
Fayette County	51,431
Lawrence County	31,031
Mercer County consortium	100,778
Southern Alleghany consortium	134,576
Susquehanna consortium	85,318
York County	45,911
Lycoming consortium	49,353
Franklin County	23,571
Balance of Pennsylvania	249,406
Centre County	24,918

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Northumberland County	38,886
Pennsylvania	3,078,054
Peninsula consortium	80,483
Stama consortium	189,998
Ramps consortium	97,439
Henrico County consortium	31,013
Roanoke consortium	60,783
Arlington County	35,323
Fairfax County	58,673
Prince William County	17,090
Alexandria City	21,074
Balance of Virginia	596,872
Virginia	1,188,748
West Virginia statewide	542,051
West Virginia	542,051
Region III	6,436,544
Balance of Alabama	592,328
Birmingham consortium	173,158
Huntsville consortium	48,800
Mobile consortium	105,660
Montgomery consortium	67, 365
Tuscaloosa County	29,250
Alabama	1,016,561
Balance of Florida	365,010
Alachua County	31,122
Brevard County	80,778
Broward consortium	265,758
Miami/Dade consortium	528,787
Escambia County	56,755
Heartland manpower consortium	119,525
Lee County	33,187
Leon/Gadsen consortium	44,510
Northeast Florida manpower consortium	159,359
Oskaloosa County	26,861
Orange County/Orlando consortium	114,627
Manatee County	39,405
Palm Beach County	129,565
Pasco County	33,414
Seminole County	42,756
St. Petersburg consortium	164,994
Sarasota County	32,672
Tampa consortium	206,844
Volusia County	68,044
Florida	2,543,973
Balance of Georgia	768,444
CSRA consortium	91,389
Atlanta City	222,589
Clayton County	26,189
Cobb County	60,342
Columbus area consortium	65,960
Balance of De Kalb County	83,795
Fulton County	41,973
Mid-Georgia consortium	81,853
Savannah/Chatham consortium	51,339
Gwinnett County	17,832
Georgia	1,511,705
Blue Grass manpower consortium	68,346
Louisville/Jefferson consortium	174,207
Kenton County	32,987
Balance of Kentucky	623,951
Kentucky	899,491
Balance of Mississippi	624,347
Jackson consortium	68,952
Harrison County	33,866
Mississippi	727,165
Balance of North Carolina	1,020,828

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Alamance County	32,591
Buncombe County	45,774
Cumberland County	68,083
Charlotte City	68,019
Durham consortium	51,129
Gaston County	35,354
Greensboro consortium	67,390
Onslow County	18,004
Raleigh consortium	73,148
Balance of Wake County	23,864
Winston Salem consortium	51,977
Davidson County	28,088
North Carolina	1,584,249
South Carolina statewide	828,804
South Carolina	828,804
Balance of Tennessee	730,883
Chattanooga City	37,350
Memphis consortium	193,660
Balance of Hamilton County	30,072
Knoxville consortium	74,581
Nashville/Davidson County	114,451
Sullivan County	32,182
Tennessee	1,213,179
Region IV	10,325,127
Chicago City	1,619,658
Balance of Cook County	354,023
Du Page County	55,660
Kane County consortium	54,889
Lake County	62,691
Macon County	31,916
McHenry County	19,005
Rock Island County	28,540
Tazewell County	16,261
La Salle County	18,018
Rockford consortium	56,288
Champaign consortium	36,030
Will County consortium	53,230
Sangamon County consortium	37,587
Madison County consortium	73,008
St. Clair consortium	52,270
Peoria consortium	38,035
East St. Louis City	42,209
Shawnee consortium	27,618
Balance of Illinois	411,473
McLean County	14,712
Illinois	3,103,121
Gary City	190,159
Hammond City	25,700
Balance of Lake County	56,820
Elkhart County	26,159
South Bend City	45,522
Balance of St. Joseph County	20,147
Tippecanoe County	21,369
Madison County	31,008
Vigo County	26,665
Indianapolis City	207,450
La Porte County	23,104
Fort Wayne consortium	102,487
Delaware consortium	33,184
Southwestern consortium	88,016
Balance of Indiana	497,456
Indiana	1,395,246
Balance of Michigan	519,394
Flint/Genessee consortium	157,074
Lansing consortium	109,827
Jackson consortium	88,534
Kent consortium	172,043
Muskegon consortium	61,572
Dearborn City	18,829
Detroit City	580,839
Livonia City	13,416
Warren City	34,932
Bay County	36,087
Berrien County	60,626
Calhoun County	45,211

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Kalamazoo County	52,174
Balance of Macomb County	115,106
Monroe County	29,097
Oakland County	231,965
Ottawa County	30,920
Saginaw County	60,170
St. Clair County	46,525
Balance of Wayne County	239,059
Ann Arbor City	21,960
Balance of Washtenaw County	46,441
Michigan	2,773,621
Dakota County	21,050
Balance of Ramsey County	23,995
St. Paul City	84,659
Quad Counties consortium	55,415
Region III consortium	52,784
Duluth City	25,875
Balance of Minnesota	356,499
Balance of Hennepin County	74,934
Minneapolis City	137,265
Minnesota	832,676
Cincinnati City	176,621
Butler County	61,980
Clark County	41,198
Balance of Hamilton County	71,189
Lorain County	63,592
Akron consortium	149,039
Canton consortium	105,572
Cleveland consortium	504,105
Columbus consortium	200,738
Miami Valley consortium	142,454
Central Ohio rural consortium	51,152
Toledo consortium	156,338
Northeast Ohio manpower	195,121
Balance of Ohio	697,905
Allen County	34,350
Greene County	16,825
Clermont County consortium	54,097
Lake/Ashtabula consortium	68,936
Portage County	30,234
Richland/Morrow consortium	46,741
Ohio	2,870,097
Outagamite County	21,087
Rock County	30,148
Milwaukee County	249,028
Madison/Dane consortium	52,241
WOW consortium	56,992
Winne/Fond consortium	39,069
Trico Cetec	79,550
Balance of Wisconsin	438,543
Marathon County	22,381
Wisconsin	989,039
Region V	11,963,990
Central Arkansas consortium	107,373
Texarkana	15,149
Balance of Arkansas	526,153
Arkansas	648,675
Rapides Parish	36,060
Baton Rouge City	72,572
Lafayette Parish	35,298
Calcasieu/Jefferson Davis consortium	54,002
Ouachita Parish	26,002
New Orleans City	200,116
Jefferson Parish	70,367
Shreveport City	53,478
Balance of Louisiana	516,703
Louisiana	1,064,380
Albuquerque consortium	103,098

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Balance of New Mexico	234,909
New Mexico	343,005
Comanche County	22,175
Oklahoma County	39,654
Oklahoma City consortium	107,843
Balance of Cleveland County	16,486
Tulsa consortium	110,438
Balance of Oklahoma	394,031
Oklahoma	690,627
Texarkana consortium	24,186
Texas Panhandle manpower consortium	53,919
Capitol Area manpower consortium	103,313
Southeast Texas Comp. consortium	94,970
Pasadena City	22,304
Cameron County	68,951
Coastal Bend manpower consortium	120,301
Dallas City	182,758
Balance of Dallas County	66,631
South Plains consortium	40,706
West Central Texas consortium	64,371
El Paso consortium	127,950
Fort Worth consortium	132,134
Balance of Tarrant County	21,321
Galveston County	50,170
Houston City	329,397
Balance of Harris County	72,236
Central Texas manpower consortium	46,210
Hidalgo County consortium	95,911
Alamo consortium	327,513
Region XI consortium	67,629
North Texas State consortium	53,481
Webb County	57,460
Gulf Coast consortium	97,767
East Texas consortium	122,777
Balance of Texas	561,666
Texas	3,016,037
Region VI	5,762,732
Balance of Iowa	348,967
Blackhawk County	25,428
Central Iowa regional consortium	87,600
Linn County manpower consortium	21,520
Scott County	22,730
Woodbury County	20,877
Iowa	527,122
Balance of Kansas	259,759
Kansas City consortium	51,128
Johnson/Leavenworth consortium	32,339
Wichita City	64,896
Topeka consortium	33,409
Kansas	441,531
Balance of Missouri	500,781
Springfield City	31,234
Balance of Jackson County	22,672
Kansas City consortium	196,297
Jefferson/Franklin consortium	42,793
St. Louis County	169,254
St. Louis City	274,496
Independence City	22,603
St. Charles County	23,126
Missouri	1,283,306
Balance of Nebraska	170,817
Lincoln City	28,836
Omaha consortium	111,606
Nebraska	311,259
Region VII	2,563,218

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
Adams County	49,691
Arapahoe County	20,318
Boulder County	34,199
Colorado Springs consortium	55,135
Denver City County	154,831
Jefferson County	37,679
Larimer County	21,516
Pueblo County	29,937
Weld County	22,219
Balance of Colorado	124,326
Colorado	555,291
Balance of Montana	184,220
Montana	184,220
North Dakota statewide consortium	125,510
North Dakota	125,510
South Dakota statewide consortium	134,782
South Dakota	134,782
Utah statewide consortium	278,305
Utah	278,305
Wyoming statewide consortium	70,565
Wyoming	70,565
Region VIII	1,348,632
Balance of Arizona	178,704
Phoenix City	241,236
Maricopa County	153,691
Tucson/Pima consortium	118,006
Arizona	691,637
Balance of Alameda County	185,161
Berkeley City	63,930
Balance of Contra Costa County	131,469
Marin County	51,457
Oakland City	191,678
Richmond City	35,042
San Francisco City/County	320,091
San Mateo County	132,113
Sonoma County	70,915
Santa Barbara County	71,552
Glendale City	27,630
Long Beach City	117,300
Balance of Los Angeles County	909,709
Los Angeles City	1,043,335
Orange County manpower consortium	324,334
Pasadena City	49,623
Torrance City	25,013
Ventura County	104,011
Balance of California	359,466
Humboldt County	41,973
Santa Clara Valley	283,770
Solano County	45,921
Sunnyvale City	23,859
Butte County	37,515
Sacramento/Yolo consortium	230,395
Stockton/San Joaquin consortium	114,975
Stanislaus County	102 017
Monterey County	72,333
Santa Cruz County	52,681
Fresno City/County	163,692
Imperial County	39,009
Kern County	100,087
Merced County	45,510
Inland Manpower Association	363,203
San Luis Obispo County	20,030
Tulare County	68,220

OFFICE OF ADMINISTRATION AND MANAGEMENT—Continued

	Allocations
San Diego RETC	520,389
California	6,637,404
Hawaii Balance of State	59,767
Honolulu City/County	195,773
Hawaii	255,540
Balance of Nevada	36,566
Las Vegas consortium	114,041
Washoe County	44,326
Nevada	195,333
American Samoa	4,686
American Samoa	4,686
Guam	52,059
Guam	52,059
Pacific Trusts	8,543
Pacific Islands	8,543
Region IX	7,845,202
Municipality of Anchorage	33,146
Balance of Alaska	100,857
Alaska	134,003
Idaho statewide consortium	213,043
Idaho	213,043
Portland City	147,739
Balance of Clackamas County	52,180
Lane County	84,870
Multnomah/Washington consortium	90,941
Mid Willamette Valley consortium	79,451
Jackson County consortium	58,377
Balance of Oregon	245,935
Oregon	759,493
Spokane consortium	78,442
Clark County	39,397
King/Snohomish consortium	475,205
Kitsap County	24,166
Tacoma City	65,709
Balance of Pierce County	64,224
Yakima County	54,573
Balance of Washington	304,392
Washington	1,037,173
Region X	2,203,717
State and Local Total	61,803,895
Indians	1,191,135
National Total	63,000,000

Signed this 27th day of June 1978.

ROBERT TAGGART,
Administrator,
Office of Youth Programs.

[FR Doc. 78-18920 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3114]

A. O. WILSON STRUCTURAL CO., CAMBRIDGE, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3114: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 13, 1978 in response to a worker petition received on January 26, 1978 which was filed on behalf of workers and former workers producing fabricating structural steel at A. O. Wilson Structural Co., Cambridge, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of A. O. Wilson Structural Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commssion, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria has been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation has revealed that customers of A. O. Wilson Structural Co. who were surveyed did not purchase imported fabricated structural steel.

CONCLUSION

After careful review, I determine that workers of A. O. Wilson Co., Structural Cambridge, Mass. are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19053 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3158]

ALBEX CONTRACTORS, INC., BROOKLYN, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3158: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suit jackets at Albex Contractors, Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Albex Contractors, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Albex Contractors, Inc. produces only on order; therefore sales and production are equal. Production at Albex Contractors increased 9.3 percent in 1977 compared to 1976.

In every quarter of 1977 production, in quantity, increased compared to the corresponding quarter in 1976. For the first quarter of 1978, production increased 0.9 percent over the first quarter in 1977.

CONCLUSION

After careful review I determine that all workers at Albex Contractors, Inc., Brooklyn, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 78-19052 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3228]

BROWN SHOE CO., POTOSI, MO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3228: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the act.

The investigation was initiated on February 23, 1978 in response to a worker petition received on February 14, 1978 which was filed on behalf of workers and former workers producing women's shoes at the Potosi, Mo. plant of the Brown Shoe Co.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Brown Shoe Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

On July 22, 1977 the Department issued a Notice of negative determination regarding eligibility of the same group of workers. (TA-W-1689).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria has been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of women's shoes at Brown's Potosi, Mo. plant, increased both in quantity and in value, from 1975 to 1976 and from 1976 to 1977. Production also increased in the first 2 months of 1978 compared to the same period of 1977. All shoes produced at the plant are on order for Brown Shoe Co. and are shipped to Brown's central warehouse for distribution. Therefore sales and production are equal.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that increases of imports like or directly competitive with women's shoes produced at the Potosi, Mo. plant of the Brown Shoe did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc 78-19054 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-1611 and 1612]

COLEMAN PRODUCTS CO., COLEMAN, WIS.; IRON RIVER, MICH.

Notice of Revised Determination on Reconsideration Regarding Eligibility To Apply for Worker Adjustment Assistance

[EDITORIAL NOTE: This Document replaces a document that was published through an editorial error on Friday, July 7, 1978 at page 29369 and numbered FR Doc. 78-18762.]

In accordance with section 222 of the Trade Act of 1974, and in accordance with section 223(a) of such act, the Department of Labor issued on October 18, 1977, a Notice of Negative Determinations Regarding Eligibility to Apply for Adjustment Assistance that applied to workers and former workers who produced wire harnesses for automotive use at the Coleman, Wis., and Iron River, Mich., plants of the Coleman Products Co., a wholly owned subsidiary of the American Motors Corp. (AMC).

Pursuant to that notice, workers at the Coleman, Wis., and Iron River, Mich., plants were denied eligibility to apply for trade adjustment assistance. The notice of determination was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57767).

Officials of AMC, petitioner for workers and former workers, requested administrative reconsideration of TA-W-1611 and 1612. The Department denied reconsideration. The *Notice of Negative Determination Regarding Application for Reconsideration* was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2459).

Subsequent to the publication of the Negative Determination Regarding Application for Reconsideration, the Office of Trade Adjustment Assistance, on its own motion and in the light of additional information, reopened the investigation into the petitions filed by the UAW on behalf of workers producing automotive wire harnesses at the Coleman, Wis., and Iron River, Mich., plants of the Coleman Products Co. (TA-W-1611 and 1612).

In the original investigation, it was indicated that the Coleman Products Co. is a wholly owned subsidiary of the American Motors Corp. (AMC) and it supplies wire harnesses for AMC vehicles. A negative determination was issued on October 18, 1977, for these petitions and the decision was based on two factors: (1) with domestic facilities supplying 100 percent of the component needs for the Canadian assembly plant of AMC, increased imports of Canadian-assembled AMC cars (the subcompact Gremlin and the compact Hornet) did not contribute importantly to separations of workers at the Coleman, Wis., and Iron River, Mich., plant of Coleman Products Co.; and (2) with intermediate size cars being the only relevant car class that was adversely affected by aggregate U.S. imports, production of wire harnesses for ultimate use in domestically produced AMC intermediate cars did not represent a significant proportion of sales or production at the Coleman, Wis., and Iron River, Mich., plants of Coleman Products Co.

A further investigation of TA-W-1611 and 1612 reveals that little consideration was given to the import data for subcompact cars during the first quarter of model year (MY)[1] 1977. A review of the import data that were available in the investigation of TA-W-1611 and 1612 indicated that aggregate U.S. imports of subcompact cars increased from 301,300 units in the first quarter of MY 1976 to 350,500 units in the first quarter of MY 1977, an increase of 16.3 percent. The ratio of imports to domestic production of subcompact cars increased from 101.4 percent in the first quarter of MY 1976 to 260.8 percent in the first quarter of MY 1977. (More recent data indicate increased import penetration of subcompacts for the full MY 1977. Subcompact imports rose to 1,813,000 units, equivalent to 294 percent of U.S. production in that year.)

Import data available in TA-W-1611 and 1612 indicated that in MY 1976 there were increased aggregate U.S. imports of intermediate size cars. Based on increased aggregate imports of subcompacts and increased aggregate imports of intermediates, the original investigation could have shown that increased aggregate imports contributed importantly to declines in production of AMC subcompact cars as well as intermediate cars.

With this expanded analysis of import influence, a reexamination of the degree to which the workers of the Coleman Products Co. produced wire harnesses for AMC subcompact and intermediate cars is warranted. Data from the investigation of TA-W-1611 and 1612 indicated that sales of wire harnesses for ultimate use in AMC domestically produced subcompact and intermediate cars represented a significant proportion of both the Coleman, Wis., and Iron River, Mich., plants' outputs during the period from MY 1974 through MY 1976.

CONCLUSION

Based on additional evidence, a review of the entire record, and in accordance with the provisions of the act, I make the following revised determination:

All workers engaged in employment related to the production of wire harnesses for automotive use at the Coleman, Wis., and Iron River, Mich., plants of Coleman Products Co. who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19055 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3409]

COLUMBIA IRON & METAL CO. GIRARD, OHIO, DIVISION

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3409: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on March 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers processing and selling scrap iron and metal for steel mills and foundries at the Girard, Ohio, facility of Columbia Iron & Metal Co.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Columbia Iron & Metal Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

[1] Model Year (MY) runs from Oct. 1 through Sept. 30 of a given year.

The Department's investigation has revealed that customers of the Girard Ohio facility of Columbia Iron & Metal Co. who were surveyed did not purchase any imported scrap iron or metal.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers of Columbia Iron & Metal Co., Girard, Ohio, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 78-19056 Filed 7-10-78; 8:45 am]

[4510-23]

Office of the Secretary

CONSUMER REPRESENTATION PLAN (CRP)

Proposed Revision

AGENCY: Office of Consumer Affairs, Labor.

ACTION: Proposed change in notice of Consumer Representation Plan.

SUMMARY: The Department of Labor proposes to delete the requirement for an annual open meeting in each regional city in its Consumer Representation Plan due to a lack of interest in such meetings and, thus, to eliminate an activity not found necessary by affected consumers.

DATES: Comments must be received on or before September 11, 1978.

ADDRESSES: Comments should be sent to: John W. Leslie, Special Assistant to the Secretary for Consumer Affairs, U.S. Department of Labor, Room S1032 New DOL Building, 3rd and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9711.

FOR FURTHER INFORMATION CONTACT:

John W. Leslie, Special Assistant to the Secretary for Consumer Affairs, U.S. Department of Labor, Room S1032 New DOL Building, 3rd and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9711.

SUPPLEMENTARY INFORMATION: A revision to the Consumer Representation Plan was proposed in the August 12, 1977 FEDERAL REGISTER and made final in the September 27, 1977. FEDERAL REGISTER to suspend until further notice the paragraph appearing in 41 FR 42816 which reads as follows:

Hold an annual open meeting in each of our regional cities for consumers to evaluate program operations, regulations and policy.

The Department has received no comments in response to either notice nor any requests for such meetings. In addition, the Department has determined that the existing means of consumer input—through such activities as direct contacts or advisory committees—will be sufficient and more cost-effective than holding the annual open meetings. So it is proposed here to eliminate the annual open meeting requirement.

Signed at Washington, D.C. on the 29th day of June 1978.

JOHN W. LESLIE,
Special Assistant to the Secretary for Consumer Affairs.

[FR Doc. 78-18971 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3380, 3380(A)]

EAGLE-PICHER INDUSTRIES, INC., MINERALS DIVISION, ILLINOIS-WISCONSIN OPERATIONS, OPERATION OFFICES, AND GRAHAM MILL, GALENA, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3380, 3380(A): Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 3, 1978, which was filed on behalf of workers and former workers producing zinc concentrate at the Illinois-Wisconsin Operations of Eagle-Picher Industries, Inc., Minerals Division, Galena, Ill. The investigation was expanded to include the Graham mill south of Galena.

The notice of investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Eagle-Picher Industries, its customers, the U.S. Department of the Interior, the American Bureau of Metal Statistics, Metals Week, Metal Bulletin, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of slab zinc, a further stage of processing for zinc concentrate, increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 and then declined to 555,147 short tons in 1977. The ratio of imports to domestic production increased from 76.7 percent in 1975 to 127 percent in 1976 and increased to 127.9 percent in 1977.

Increased imports of zinc have caused downward pressure on the domestic prices of zinc. The U.S. producers price for zinc declined from 37 cents per pound in April 1977 to 29 cents per pound in March 1978. The average price per pound was 38.959 cents in 1975, 37.010 cents in 1976, and 34.392 cents in 1977.

Domestic suppliers of zinc can remain competitive with foreign suppliers of zinc as long as the U.S. producers' price is within 5 cents of the London Metals Exchange (LME) price. With a spread greater than 5 cents, domestic consumers are induced to increase purchases from foreign suppliers.

In the fourth quarter of 1976, the U.S. producers' price for zinc was 8.6 cents higher than the LME price. The average U.S. producers' price for zinc in 1977 was 7.6 cents higher than the average LME price for zinc in 1977. During several months of 1977, the price differential was closer to 10 cents.

This downward price pressure from imported zinc has reduced the ability to profitably mine domestic ore and convert it to zinc concentrate. Comments made by a customer purchasing zinc concentrate from Eagle-Picher substantiate the influence of imported zinc on the price which Eagle-Picher can obtain for its concentrate. This customer has lowered its price for slab zinc five times since October 1976, resulting in reductions in the price paid to Eagle-Picher for its concentrate.

Eagle-Picher's decision to halt revitalization of the Graham mill, the Crawhall mine, and Elmo No. 3 mine in June 1977, and its decision to close the Bear Hole mine and to reduce production at the Shullsburg mine and mill in February 1978 were based on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for zinc.

CONCLUSION

After careful review, I conclude that increased imports of articles like or directly competitive with zinc concentrate produced at the Illinois-Wisconsin Operations of Eagle-Picher Industries, Inc., Minerals Division contributed importantly to the decline in sales and to the total or partial separations of workers of that subdivision. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of zinc concentrate at

the Galena Offices and the Graham Mill of Eagle-Picher Industries, Inc., Minerals Division, Illinois-Wisconsin Operations, who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19058 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3411, 3411(A), 3412, 3412(A)]

EAGLE-PICHER INDUSTRIES, INC., MINERALS DIVISION, ILLINOIS-WISCONSIN OPERATIONS, SHULLSBURG MINE & MILL, BEAR HOLE MINE AND CRAWHALL MINE, SHULLSBURG, WIS.: ELMO NO. 3 MINE, CUBA CITY, WIS.: LINDEN, WIS. MINE AND MILL

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3411, 3411(A), 3412, 3412(A): Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 10, 1978, which was filed by the United Steel Workers of America on behalf of workers and former workers producing zinc concentrate at the Shullsburg Mine & Mill, the Bear Hole Mine and the Linden, Wis. Mine & Mill of the Bear Hole Mine of the Illinois-Wisconsin Operations of Eagle-Picher Industries, Inc., Minerals Division. The investigation was expanded to include the Crawhall Mine near Shullsburg, Wis. and the Elmo No. 3 Mine near Cuba City, Wis.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Eagle-Picher Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, the American Bureau of Metal Statistics, Metals Week, Metal Bulletin, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to the workers at the Linden, Wis. Mine & Mill without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Linden, Wis. Mine and Mill were closed down indefinitely in June 1975 and have not been in operation since. Workers separated at that time were separated more than 20 months prior to March 1, 1977, the earliest possible impact date according to Title II, Chapter 2, section 223(b) of the Trade Act of 1974.

With respect to workers at the Shullsburg Mine and Mill, the Bear Hole Mine, the Crawhall Mine, and the Elmo No. 3 Mine; all of the group eligibility requirements of section 222 of the act have been met.

U.S. imports of slab zinc, a further stage of processing for zinc concentrate, increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 and then declined to 555,147 short tons in 1977. The ratio of imports to domestic production increased from 76.7 percent in 1975 to 127.0 percent in 1976 and increased to 127.9 percent in 1977.

Increased imports of zinc have caused downward pressure on the domestic price of zinc. The U.S. producers price for zinc declined from 37.000 cents per pound in April 1977 to 29.000 cents per pound in March 1978. The average price per pound was 38.959 cents in 1975, 37.010 cents in 1976, and 34.393 cents in 1977.

Domestic suppliers of zinc can remain competitive with foreign suppliers of zinc as long as the U.S. producers' price is within 5 cents of the London Metals Exchange (LME) price. With a spread of greater than 5 cents, domestic consumers are induced to increase purchases from foreign suppliers.

In the fourth quarter of 1976 the U.S. producers price for zinc was 8.6 cents higher than the LME price. The average U.S. producers price for zinc in 1977 was 7.6 cents higher than the average LME price for zinc in 1977. During several months of 1977 the price differential was closer than 10 cents.

This downward price pressure from imported zinc has reduced the ability to profitably mine domestic ore and convert it to zinc concentrate. Comments made by a customer purchasing zinc concentrate from Eagle-Picher substantiate the influence of imported zinc on the price which Eagle-Picher can obtain for its concentrate. That customer has lowered its price for slab zinc five times since October 1976, resulting in reductions in the price paid to Eagle-Picher for its concentrate.

Eagle-Picher's decision to halt revitalization of the Graham Mill, the Crawhall Mine, and Elmo No. 3 Mine in June 1977 and its decision to close the Bear Hole Mine and to reduce production at the Schullsburg Mine and Mill in February 1978 were based on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for zinc.

CONCLUSION

After careful review I conclude that increased imports of articles like or directly competitive with zinc concentrate produced at the Illinois-Wisconsin Operations of Eagle-Picher Industries, Inc., Minerals Division contributed importantly to the decline in sales and to the total or partial separations of workers of that subdivision. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of zinc concentrate at the Shullsburg Mine and Mill, the Bear Hole Mine, the Crawhall Mine, and the Elmo No. 3 Mine of Eagle-Picher Industries, Inc., Minerals Division, Illinois-Wisconsin Operations who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers at the Linden, Wis. Mine and Mill of Eagle-Picher Industries, Minerals Division, Illinois-Wisconsin Operations are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19059 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2735]

EDGEWATER STEEL CO., OAKMONT, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2735: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the act.

The investigation was initiated on December 7, 1977 in response to a worker petition received on November 23, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing railroad wheels and forged rings at the Oakmont, Pa. plant of the Edgewater Steel Co.

The Notice of Investigation was published in the FEDERAL REGISTER on De-

cember 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Edgewater Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's survey of some of the customers who purchase railroad wheels from Edgewater Steel revealed that none of the customers who have decreased purchases from Edgewater Steel have increased purchases of imported railroad wheels.

The Department's survey of customers who purchase rings revealed that most customers either increased purchases from Edgewater, or those decreasing purchases also decreased imports.

CONCLUSION

After careful review I determine that all workers at Edgewater Steel Co., Oakmont, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19057 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2922]

EMBASSY APPAREL, INC., GLENS FALLS AND WHITEHALL, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2922: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the act.

The investigation was initiated on January 12, 1978 in response to a worker petition received on December 29, 1977 which was filed by the United Garment Workers of America on behalf of workers and former workers producing men's dress and sport shirts at Embassy Apparel, Inc. During the course of the investigation it was established that a very small percentage of women's shirts was also produced at both the Glens Falls and Whitehall, N.Y. plants.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Embassy Apparel, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the act must be met. It is concluded that all of the requirements have been met. Without regard to whether any of the other criteria has been met, the following criterion has not been met.

U.S. imports of men's and boys' woven dress, business, sport, and uniform shirts increased from 91,808 thousand units in 1975 to 144,103 thousand units in 1976, an increase of 57.0 percent. Imports then decreased to 139,720 thousand units in 1977, a decrease of 3.0 percent. The imports to domestic production ratio increased from 36.8 percent in 1975 to 53.9 percent in 1976.

A survey of customers of Embassy Apparel, Inc., Glens Falls and Whitehall, N.Y. indicated that customers increased purchases of imports in 1977 while decreasing purchases from Embassy Apparel.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that increases of imports of articles like or directly competitive with men's and women's dress and sport shirts produced by the Glens Falls and Whitehall, N.Y. plants of Embassy Apparel, Inc. contributed importantly to the total or partial separation of workers at those plants. In accordance with the provisions of the act, I make the following certifications:

All workers at the Glens Falls, N.Y. plant of Embassy Apparel, Incorporated who became totally or partially separated from employment on or after December 20, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All workers at the Whitehall, N.Y. plant of Embassy Apparel, Incorporated who became totally or partially separated from employment on or after March 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19060 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-1606 and 1607]

EVART PRODUCTS CO., EVART, MICH.

Revised Determination on Reconsideration Regarding Eligibility To Apply for Worker Adjustment Assistance

[EDITORIAL NOTE: This Document replaces a document that was published through an editorial error on Friday, July 7, 1978 at page 29370 and numbered FR Doc. 78-18764.]

In accordance with section 222 of the Trade Act of 1974, and in accordance with section 223(a) of such act, the Department of Labor issued on October 18, 1977, a Notice of Negative Determinations Regarding Eligibility to Apply for Adjustment Assistance that applied to workers and former workers who produced plastic parts for automotive use at the Evart, Mich., plant of the Evart Products Co., a wholly owned subsidiary of the American Motors Corp. (AMC).

Pursuant to that notice, workers at the Evart, Mich., plant were denied eligibility to apply for trade adjustment assistance. The notice of determination was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57769).

Officials of AMC, petitioner for workers and former workers, requested administrative reconsideration of TA-W-1606 and 1607. The Department denied reconsideration. The Notice of Negative Determination Regarding Application for Reconsideration was published in the FEDERAL REGISTER on January 17, 1978, (43 FR 2459).

Subsequent to the publication of the Notice of Negative Determination Regarding Application for Reconsideration, the Office of Trade Adjustment Assistance, on its own motion and in the light of additional information, reopened the investigation into the petitions filed by the UAW on behalf of workers producing automotive molded plastic parts at the Evart, Wis., plant of the Evart Products Co. (TA-W-1606 and 1607).

In the original investigation, it was indicated that the Evart Products Co. is a wholly owned subsidiary of the American Motors Corp. (AMC) and it supplies molded plastic parts for AMC vehicles. A negative determination was issued on October 18, 1977, for these petitions and the decision was based on two factors: (1) With domestic facilities supplying 100 percent of the

component needs for the Canadian assembly plant of AMC, increased imports of Canadian-assembled AMC cars (the subcompact Gremlin and the compact Hornet) did not contribute importantly to separations of workers at Evart Products Co.; and (2) with intermediate size cars being the only relevant car class that was adversely affected by aggregate U.S. imports, production of molded plastic parts for ultimate use in domestically produced AMC intermediate cars did not represent a significant proportion or sales or production at the Evart, Wisconsin, plant of the Evart Products Co.

A further investigation of TA-W-1606 and 1607 reveals that little consideration was given to the import data for subcompact cars during the first quarter of Model Year (MY) [1] 1977. A review of the import data that were available in the investigation of TA-W-1606 and 1607 indicated that aggregate U.S. imports of subcompact cars increased from 301,300 units in the first quarter of MY 1976 to 350,500 units in the first quarter of MY 1977, an increase of 16.3 percent. The ratio of imports to domestic production of subcompact cars increased from 101.4 percent in the first quarter of MY 1976 to 260.8 percent in the first quarter of MY 1977. (More recent data indicate increased import penetation of subcompacts for the full MY 1977. Subcompact imports rose to 1,813,000 units equivalent to 294 percent of U.S. production in that year.)

Import data available in TA-W-1606 and 1607 indicated that in MY 1976 there were increased aggregate U.S. imports of intermediate size cars. Based on increased aggregate imports of subcompacts and increased aggregate imports of intermediates, the original investigation could have shown that increased aggregate imports contributed importantly to declines in production of AMC subcompact cars as well as intermediate cars.

[1] Model Year (MY) runs from October 1 through September 30 of a given year.

With this expanded analysis of import influences, a reexamination of the degree to which the workers of the Evart Products Co. produced molded plastic parts for AMC subcompact and intermediate cars is warranted. Data from the investigation of TA-W-1606 and 1607 indicate that sales of molded plastic parts from the Evart, Michigan, plant for ultimate use in AMC's domestically produced intermediate and subcompact cars represented a significant proportion of the Evart plant's output for the period from MY 1974 through MY 1976.

Conclusion

Based on additional evidence, a review of the entire record, and in acordance with the provisions of the Act, I make the following revised determination:

All workers engaged in employment related to the production of plastic parts for automotive use at the Evart, Michigan, plant of Evart Products Co. in Evart, Mich., who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of June 1978.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19061 Filed 7-10-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting eligiblity requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the act, in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than ——

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than ——

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of June 1978.

Harold A. Bratt,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Colonial Craftsmen Pewter Workshop, Inc., (workers).	Cape May, N.J.	June 23, 1978	June 16, 1978	TA-W-3,919	Pewter and wooden artifacts.
Kennecott Copper Corp., Tintic Division (USWA).	Eureka, Utah	June 29, 1978	June 1, 1978	TA-W-3,920	Mining of zinc ore and concentrate.
Robinson Excavating & Trucking (workers).	Metaline Falls, Wash.	do.	June 26, 1978	TA-W-3,921	Hauling of ore for the Bunker Hill Mine.
M. H. Lazarus, Division of U.S. Industries, Inc. (workers).	New York, N.Y.	do.	do.	TA-W-3,922	Cotton goods, upholstery, plastic, fiberglass and wall coverings.

[FR Doc. 78-19051 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3353]

K & D CLOTHING MANUFACTURING CO., PHILADELPHIA, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3353: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 15, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of all workers producing men's sportcoats and suitcoats at the K & D Clothing Manufacturing Co., Philadelphia, Pa. During the course of the investigation, it was revealed that K & D Clothing Manufacturing Co. also produces vests.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14774). No public hearing was requested and none was held.

On January 27, 1976, the Department issued a certification of eligibility to apply for adjustment assistance for all workers at K & D Clothing Manufacturing Co.; the certification expired on January 27, 1978. (TA-W-243)

The information upon which the determination was made was obtained principally from officials of K & D Clothing Manufacturing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

* * * that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers engaged in employment related to the production of men's suit coats, sportcoats and vests increased in the first quarter of 1978 compared to the same period in 1977. The first quarter of 1978 is the applicable period of the investigation since workers who were separated before that period were eligible to collect trade adjustment assistance benefits until January 27, 1978, when the previous certification expired. Employment in the first quarter of 1978 increased compared to the first quarter of 1977. Officials of the K & D Clothing Manufacturing Co. indicated that no layoffs had occurred in 1978 and that they expected no layoffs in the next few months as orders continue to increase. There were no significant reductions in average hours worked in 1977 or in the first quarter of 1978.

CONCLUSION

After careful review, I determine that all workers of K & D Clothing Manufacturing Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 78-19062 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2673]

LAWRENCE GARMENT CO., LONDON GARMENT CO., LAWRENCE, MASS.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 and in accordance with section 223(a) of such act, on March 10, 1978, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of various manufacturing divisions of Davis Sportswear, Inc., including Lawrence Garment Co. (TA-W-2673).

The notice of certification was published in the FEDERAL REGISTER on March 17, 1978 (FR Doc. 78-7188).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the London Garment Co., Lawrence, Mass. Further investigation revealed that the petition for Lawrence Garment Co. was intended to apply to workers at London Garment Co. as well. London Garment Co. produced the same product as the Lawrence Garment Co. and the other manufacturing divisions of Davis Sportswear.

The subject workers were not identified in the initial investigation or the original certification due to an error.

CONCLUSION

Based on additional evidence, a review of the entire record and in accordance with the provisions of the act, I have determined that the following certification is hereby made as follows:

All workers at the Lawrence Garment Co. and the London Garment Co., Lawrence, Mass., who became totally or partially separated from employment on or after November 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19063 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2250]

LILLI ANN CORP., SAN FRANCISCO, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2250: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 10, 1977, in response to a worker petition received on August 8, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's suits and coats at the Lilli Ann Corp., San Francisco, Calif.

The notice of investigation was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42397). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lilli Ann Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

* * * that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production.

Approximately 80 percent of total production at Lilli Ann was of women's suits. Imports of women's, misses' and children's suits declined absolutely and relative to domestic

production in 1976 compared to 1975 and in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of Lilli Ann Corp., San Francisco, Calif., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19064 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3296]

MUNSINGWEAR, INC., ASHLAND, WIS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3296: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 2, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing men's and boys' sport shirts at the Ashland, Wis., plant of Munsingwear, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Munsingwear, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven sport shirts increased in 1975 to 61 million units, increased to 79.8 million units in 1976, and then declined to 75.3 million units in 1977. The ratio of imports to domestic production increased to 38.7 percent in 1975 and 48.6 percent in 1976.

U.S. imports of men's and boys' knit sport and dress shirts increased to 66.2 million units in 1975, increased to 74 million units in 1976, and increased to 75.2 million units in 1977. The ratio of imports to domestic production was 22.9 percent in 1975 and 22.6 percent in 1976.

Munsingwear's imports of men's and boys' sport shirts increased in 1976 and increased 299.1 percent in quantity and 376.3 percent in value in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' sport shirts produced by the Ashland, Wis., plant of Munsingwear, Inc., contributed importantly to the decline in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Ashland, Wis., plant of Munsingwear, Inc., who became totally or partially separated from employment on or after February 7, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19065 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2978]

NATIONAL STEEL SERVICE CENTER, INC., DES MOINES, IOWA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2978: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 30, 1978, in response to a worker petition received on January 10, 1978, filed by the United Steelworkers of America on behalf of workers and former workers warehousing steel purchased from National Steel's producing facilities.

The Department's investigation revealed that National Steel Service Center, Inc., Des Moines, Iowa, also sells and warehouses steel purchased from companies other than National Steel.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of National Steel Corp., National Steel Service Center, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

• • • that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

There were no significant employment declines during the period of possible coverage. In the period of possible coverage, there was only one separation and that was for less than 1 month. There exists no current threat of further layoffs.

CONCLUSION

After careful review, I conclude that all workers at National Steel Service Center, Inc., Des Moines, Iowa, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19066 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3106]

PARK CITY VENTURES, PARK CITY, UTAH

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3106: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 9, 1978, in response to a worker petition received on January 31, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc, lead, and silver at Park City Ventures, Park City, Utah. During the

course of the investigation it was revealed that the workers produce zinc concentrate and lead concentrate.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Park City Ventures, the Anaconda Co., Metals Week, Metal Bulletin, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Park City Ventures produces zinc concentrate from ores mined at its Ontario Mine in Park City, Utah. These concentrates are sold to zinc refiners where they are refined into zinc metal and sold.

The ratio of imports of slab zinc to domestic production increased from 76.7 percent in 1975 to 127 percent in 1976 and 127.9 percent in 1977.

Industry sources maintain that domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic price is within 5 cents per pound of the London Metal Exchange price. Except for brief periods in the spring and summer of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producers' price for zinc was 7.6 cents per pound higher than the average LME zinc price in 1977, well above the 5-cent limit at which domestic suppliers can remain competitive.

Evidence developed during the course of the investigation indicate that imports of refined zinc metal have been an important factor affecting domestic sales of zinc and depressing the price of zinc. The depressed price of zinc brought about a reduction in the domestic production of refined zinc and has resulted in cutbacks and shutdowns at many mines and concentrators producing zinc concentrate, among them, Park City Ventures, Park City, Utah.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with zinc concentrate produced by Park City Ventures, Park City, Utah, contributed importantly to the decline in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Park City Ventures, Park City, Utah, who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19067 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3288]

REGAL BAG CO., INC., NEWBURGH, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3288: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 1, 1978, in response to a worker petition received on February 21, 1978, which was filed by the International Leather Goods, Plastic & Novelty Workers Union on behalf of workers and former workers producing ladies' vinyl handbags at Regal Bag Co., Inc., Newburgh, N.Y. During the course of the investigation it was determined that handbags of canvas and vinyl/suede combinations and handbags for children are also produced.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10649). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Regal Bag Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

* * * that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the Water Street and the South William Street plants of Regal Bag Co. increased 23 and 6 percent, respectively, from 1976 to 1977.

The petition alleges that separations occurred in September 1976. Section 223 of the Trade Act states that no employees separated more than 1 year prior to the petition date, February 15, 1978, are eligible to apply for adjustment assistance.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers of the Water Street and South William Street Plants of Regal Bag Co., Inc., Newburgh, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19068 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3111]

ROBERT LEWIS, INC., WEST LONG BRANCH, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3111: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 9, 1978, in response to a worker petition received on January 27, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of all workers producing men's outerwear at the West Long Branch, N.J., plant of Robert Lewis, Inc.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Robert Lewis, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is

concluded that all of the requirements have been met.

U.S. imports of men's and boys' nontailored outer jackets increased in quantity in 1976 compared to 1975 and in 1977 compared to 1976.

U.S. imports of leather coats and jackets increased absolutely in 1977 compared to 1976.

Company imports of down-lined coats, an item that is competitive with coats produced at the West Long Branch plant, increased in 1977 compared to 1976.

The Department conducted a survey of a representative sample of customers of the West Long Branch plant. Many of these customers indicated that they purchase imported men's outerwear. Several decreased puchases from Robert Lewis, Inc., in 1977 compared to 1976 and increased purchases of imports during the same time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's outerwear produced by Robert Lewis, Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant as required for certification. In accordance with the provisions of the act, I make the following certification:

All workers of Robert Lewis, Inc., West Long Branch, N.J., who became totally or partially separated from employment on or after January 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 78-19069 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3113]

SOVEREIGN TEXTILES DIVISION, MANES ORGANIZATION, INC., NEW YORK CITY, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3113: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 9, 1978, in response to a worker petition received on January 27, 1978, which was filed on behalf of workers and former workers producing men's shirting fabrics at the Sovereign Textiles Division of Manes Organization, Inc., New York City, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Manes Organization, Inc., New York City, N.Y., its customers, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

U.S. imports of finished fabric increased absolutely from 408,000,000 square yards in 1975 to 464,000,000 square yards in 1976 and declined absolutely from 464,000,000 square yards in 1976 to 453,000,000 square yards in 1977. The ratios of imports to domestic production and consumption increased from 1.6 percent for both in 1975 to 1.8 percent for both in 1976.

Several of the customers of Sovereign Textiles that were surveyed indicated that they had increased purchases of finished fabric from foreign sources and decreased purchases from Sovereign Textiles.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with men's shirting fabric produced at the Sovereign Textiles Division of Manes Organization, Inc., New York City, N.Y., contributed importantly to the decreases and sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers at the Sovereign Textiles Division of Manes Organization, Inc., New York City, N.Y., engaged in employment related to the production of men's shirting fabrics who became totally or partially separated from employment on or after January 24, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19070 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3500]

TICK TOCK FROCKS, INC., FALL RIVER, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3500: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 27, 1978, which was filed on behalf of all workers producing dresses at Tick Tock Frocks, Inc., Fall River, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tick Tock Frocks, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Tick Tock Frocks was a contractor producing only dresses. The company ceased its production operations and laid off all production workers in June 1977. Imports of women's, misses' and children's dresses declined from 1,655,000 dozen in 1975 to 1,614,000 dozen in 1976 and to 1,420,000 dozen in 1977. Imports declined from 809,000 dozen in the first half of 1976 to 733,000 dozen in the first half of 1977. The ratio of imports to domestic production of dresses declined from 8.0 percent in 1975 to 7.9 percent in 1976, but cannot be calculated for 1977 as domestic production data are not yet available.

CONCLUSION

After careful review I determine that all workers of the Fall River, Mass., plant of Tick Tock Frocks, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19071 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2809A]

UNITED STATES STEEL CORP., CHRISTY PARK WORKS, BERWICK, PA.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers producing carbon steel products at the Berwick, Pa., plant of the Christy Park Works of the United States Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

During the course of the investigation, it was established that all employment at the Berwick plant was terminated in 1974 when the plant closed. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than 12 months before the date of the filing under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in this case is December 7, 1977, and, thus, workers terminated prior to December 7, 1976, are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19088 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2809]

UNITED STATES STEEL CORP., CHRISTY PARK WORKS, MCKEESPORT, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein present the results of TA-W-2809: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 21, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers producing carbon steel products at the McKeesport pant of the Christy Park Works of the United States Steel Corp.

All workers engaged in the production of seamless pipe and tubing at the McKeesport plant have previously been certified eligible to apply for adjustment assistance benefits in a determination issued by the Department on December 21, 1977. See Department Notice of Determination for TA-W-2135.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United States Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to workers producing pressurized (gas) cylinders, without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the customers that purchased cylinders from the McKeesport plant. None of the respondents reported purchases of imported cylinders in 1976 or in 1977 and most of the respondents indicated that imports of cylinders are not adversely affecting the demestic industry.

This is consistent with the finding that the ratio of imports of pressurized (gas) cylinders to domestic production was less than 1 percent in both 1976 and 1977 and was only 1.2 percent in the first quarter of 1978. Additionally, total domestic production has increased in each year compared to the previous year from 1974 to 1977.

CONCLUSION

After careful review, I determine that all workers engaged in employment related to the production of pressurized (gas) cylinders at the McKeesport, Pa., plant of the Christy Parks Works of the United States Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Drirector, Office of Foreign Economic Research.

[FR Doc. 78-19072 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3046]

UNITED STATES STEEL CORP., SUPPLY DIVISION, BALTIMORE, MD., STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3046: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the Baltimore, Md., Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales at the Baltimore, Md., Steel Service Center increased in 1977 compared to 1976 and continued to increase the first 2 months of 1978.

The Baltimore, Md., Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review, I determine that all workers at the Baltimore, Md., Steel Service Center are denied eligibility to apply for trade adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19075 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3044]

UNITED STATES STEEL CORP., SUPPLY DIVISION, BRIGHTON, MASS., STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3044: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the Brighton, Mass., Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment at the Brighton, Mass., Steel Service Center increased in 1977 compared to 1976. There were no significant total or partial separations of workers at the Brighton facility.

The Brighton, Mass., Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review I determine that all workers at the Brighton, Mass., Steel Service Center are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19074 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3043]

UNITED STATES STEEL CORP., SUPPLY DIVISION, KANSAS CITY, MO., STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3043: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the Kansas City, Mo., Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decrease absolutely.

Sales at the Kansas City, Mo., Steel Service Center increased in 1977 compared to 1976 and continued to increase in the first 2 months of 1978.

The Kansas City, Mo., Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review I determine that all workers at the Kansas City, Mo., Steel Service Center are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19073 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3048]

UNITED STATES STEEL CORP., SUPPLY DIVISION, ST. LOUIS, MO., STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3048: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the St. Louis, Mo., Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have

become totally or partially separated, or are threatened to become totally or partially separated.

Average employment at the St. Louis, Mo., Steel Service Center increased in 1977 compared to 1976. There were no significant total or partial separations of workers at the St. Louis facility.

The St. Louis, Mo., Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review I determine that all workers at the St. Louis, Mo., Steel Service Center are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade ACt of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19077 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3047]

UNITED STATES STEEL CORP., SUPPLY DIVISION, VERNON, CALIF., STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3047: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the Vernon, Calif., Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales at the Vernon, Calif., Steel Service Center increased in 1977 compared to 1976 and continued to increase in 1978.

The Vernon, Calif., Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review, I determine that all workers at the Vernon, Calif., Steel Service Center are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19076 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3062]

UNITED STATES STEEL CORP., UNITED STATES STEEL PRODUCTS DIVISION, ALAMEDA, CALIF.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3062: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing pails and drums at the Alameda, Calif., plant of the United States Steel Products Division of the United States Steel Corp. The investigation revealed that the plant only produces drums.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United States Steel Corp., and its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant produced steel shipping containers in the form of drums. The ratio of imports of pails and drums to domestic shipments has been less than 1 percent in each year between 1973 and 1977 and was .7 percent in 1977.

A survey of some of the customers purchasing drums from the plant was conducted by the Department. None of the respondents purchased any imported drums in 1976 or 1977. Most of the respondents indicated that imports of steel drums were not affecting the domestic industry. Their statements are consistent with the finding that total domestic shipments of pails and drums increased 23.3 percent from $629.7 million in 1976 to $776.6 million in 1977.

CONCLUSION

After careful review, I determine that all workers at the Alameda, Calif. plant of United States Steel Products Division of United States Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc. 78-19082 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3056]

UNITED STATES STEEL CORP., UNITED STATES STEEL PRODUCTS DIVISION, CAMDEN, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3056: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing pails and drums

at the Camden, N.J. plant of the United States Steel Products Division of the United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United States Steel Corp. and its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant produced steel shipping containers in the form of drums and pails. The ratio of imports of pails and drums to domestic shipments has been less than 1 percent in each year between 1973 and 1977 and was 0.7 percent in 1977.

A survey of some of the customers purchasing drums and pails from the plant was conducted by the Department. Only one of the respondents purchased imported drums in 1977 and that customer increased purchases from the Camden plant in 1977 compared to 1976. Most of the respondents indicated that imports of steel drums were not affecting the domestic industry. Their statements are consistent with the finding that total domestic shipments of pails and drums increased 23.3 percent from $62.7 million in 1976 to $776.6 million in 1977.

CONCLUSION

After careful review, I determine that all workers of the of the Camden, N.J. plant of the United States Steel Products Division of the United States Steel Corp. are denied eligibility to apply for adjustment under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19078 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3058]

UNITED STATES STEEL CORP., UNITED STATES STEEL PRODUCTS DIVISION, CHICAGO, ILL.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3058: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978 in response to a worker petition received on January 16, 1978 which was filed by the United Steelworkers of America on behalf of workers producing small steel pails, drums, and miscellaneous steel products at the Chicago (Dolton), Ill., plant of the United States Steel Products Division of the United States Steel Corp. The investigation revealed that the petitioners produce steel shipping containers in the form of drums.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United States Steel Corp. and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or an appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant produces steel shipping containers in the form of drums. The ratio of imports to domestic shipments of drums and pails has been less than 1 percent in each year from 1973 to 1977 and was 0.7 percent in 1977.

A survey of some of the customers of drums of the Chicago plant was conducted by the Department. Only one of the customers reported purchases of imported drums in 1977 and that customer increased purchases from the Chicago plant in 1977 compared to 1976. Most of the respondents indicated that imports were not adversely affecting the domestic industry. Their statements are consistent with the finding that total domestic shipments of drums and pails increased 23.3 percent from $629.7 million in 1976 to $776.6 million in 1977.

CONCLUSION

After careful review I determine that all workers of the Chicago (Dolton), Ill., plant of the United States Steel Products Division of the United States Steel Corp., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19079 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3060]

UNITED STATES STEEL CORP., UNITED STATES STEEL PRODUCTS DIVISION, NEW ORLEANS, LA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3060: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing small steel pails, drums, and miscellaneous steel products at the New Orleans, La., plant of the United States Steel Products Division of the United States Steel Corp. The investigation revealed that steel shipping containers, drums, and grease drums, are produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United States Steel Corp., and its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With-

out regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant produced steel shipping containers in the form of drums. The ratio of imports of pails and drums to domestic shipments has been less than 1 percent in each year between 1973 and 1977 and was 0.7 percent in 1977.

A survey of some of the customers purchasing drums from the plant was conducted by the Department. None of the respondents purchased any imported drums in 1976 or 1977. Most of the respondents indicated that imports of steel drums were not affecting the domestic industry. Their statements are consistent with the finding that total domestic shipments of pails and drums increased 23.3 percent from $629.7 million in 1976 to $776.6 million in 1977.

CONCLUSION

After careful review, I determine that all workers at the New Orleans, La., plant of United States Steel Products Division of United States Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19080 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-3061]

UNITED STATES STEEL CORP., UNITED STATES STEEL PRODUCTS DIVISION, PORT ARTHUR, TEX.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3061: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act. The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing small steel pails, drums, and miscellaneous steel porducts at the Port Arthur, Tex., plant of the United States Steel Products Division of the United States Steel Corp. The investigation revealed that steel shipping containers, drums, and grease drums, are produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United States Steel Corp., and its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make as affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or an appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant produces steel shipping containers in the form of drums. The ratio of imports to domestic shipments of drums and pails has been less than 1 percent in each year from 1973 to 1977 and was 0.7 percent in 1977.

A survey of some of the customers of the Texas plant was conducted by the Department. None of the respondents reported purchases of imported drums in 1976 or 1977. Most of the respondents stated that imports of drums were not adversely affecting the domestic industry. Their statements are consistent with the finding that total domestic shipments of pails and drums increased 23.3 percent from $629.7 million in 1976 to $776.6 million in 1977.

CONCLUSION

After careful review, I determine that all workers of the Port Arthur, Tex., plant of the United States Steel Products Division of the United States Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19081 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2931]

WABASH TRANSFORMER DIVISION OF WABASH, INC., FARMINGTON, MO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2931: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 12, 1978, in response to a worker petition received on December 27, 1978, which was filed by three workers on behalf of workers and former workers producing television transformers at Wabash Transformer Division of Wabash, Inc., Farmington, Mo.

The notice of investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wabash Transformer Division, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, *Electronics*, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Wabash Transformer Division's sole customer does not purchase imported television transformers. Petitioners allege that cutbacks by that customer due to increased imports of televisions have caused the drop in production and separations which occurred at Wabash Transformer Division. While imports of televisions incorporate transformers of the same origin, television imports are not "like or directly competitive" with television transformers within the meaning of section 222(3) of the Trade Act of 1974.

In addition, Wabash's sole customer substantially increased purchases of TV transformers from other domestic sources in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that all workers at Wabash Transformer Division of Wabash, Inc., Farmington, Mo., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19083 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2741]

WHEELING CORRUGATING CO., A DIVISION OF WHEELING-PITTSBURGH STEEL CORP., BUFFALO, N.Y., WAREHOUSE

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2741: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 7, 1977, in response to a worker petition received on November 28, 1977, which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America on behalf of workers and former workers engaged in employment related to the production of various steel products at the Buffalo, N.Y. warehouse of Wheeling Corrugating Co., a division of Wheeling-Pittsburgh Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally form officials of Wheeling-Pittsburgh Steel Corp, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Wheeling Corrugating Co. is a division of Wheeling-Pittsburgh Steel Corp. Wheeling Corrugating is a selling division and does not manufacture any products. Wheeling Corrugating maintains its own sales personnel, sales offices and warehouses.

Wheeling Corrugating sells steel products produced by Wheeling-Pittsburgh Steel Corp., primarily fabricated products. In the 2 years prior to the closure of the warehouse, fabricated products produced at the Beechbottom, W. Va., plant and the Wheeling, W. Va. Fabricating plant of Wheeling-Pittsburgh accounted for over 80 percent of the total sales from the Buffalo warehouse. Workers at these two plants have been denied eligibility to apply for adjustment by the Department in other cases (see TA-W-2686 and 2938).

CONCLUSION

After careful review, I determine that all workers at the Buffalo, N.Y., warehouse of Wheeling Corrugating Co., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19084 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2686]

WHEELING-PITTSBURGH STEEL CORP., BEECHBOTTOM, W. VA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2686: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 30, 1977, in response to a worker petition received on November 21, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Beechbottom. W. Va., plant of Wheeling-Pittsburgh Steel Corp. The investigation revealed that the workers produce mesh, expanded metal, lath, corrugated sheet, painted coils, and roof deck.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63488). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both of the firm or subdivision have decreased absolutely.

The Beechbottom plant produces fabricated steel products from steel produced at the Steubenville plant. major products produced at the plant include roof deck, painted coils, corrugated sheet, expanded metal and lath.

Total sales and production at the plant increased in quantity in 1976 from 1975 and in 1977 from 1976.

CONCLUSION

After careful review, I determine that all workers of the Beechbottom, W. Va., plant of Wheeling-Pittsburgh Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foregin Economic Research.

[FR Doc. 78-19085 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2744]

WHEELING-PITTSBURGH STEEL CORP., FOLLANSBEE, W. VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2744: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 7, 1977, in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Follansbee, W. Va., plant of Wheeling-Pittsburgh Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Wheeling-Pittsburgh Steel Corp., its customers, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Follansbee plant is for the purpose of this investigation, considered to be part of the Steubenville, Ohio, plant, which also includes a facility in Mingo Junction, Ohio (see TA-W-2743 and 2742).

The Steubenville plant is a basic steel plant. Some of the plant's output is hot and cold rolled sheet and strip which is sold to trade. The remaining portion of the plant's output is shipped unfinished to other plants of Wheeling-Pittsburgh, principally Yorkville, Ohio; Martins Ferry, Ohio; and Benwood, W. Va. Workers at the Benwood, Martins Ferry, and Yorkville plants have been certified eligible to apply for adjustment assistance by the Department in other cases (see TA-W-1472, 1572 and 2746).

Finished steel sold from the Steubenville plant and unfinished steel which is shipped to the Yorkville, Benwood, and Martins Ferry plants account for over 90 percent of the total output of the plant.

Imports of hot- and cold-rolled carbon-steel sheet and strip increased in 1976 from 1975 and increased 50 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 11.8 percent in 1976 to 18.6 percent in 1977.

Customers of Wheeling-Pittsburgh decreased purchases of hot- and cold-rolled sheet and strip from Wheeling-Pittsburgh and increased import purchases in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with various steel products produced at the Follansbee, W. Va. (Steubenville, Ohio) plant of Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers of the Follansbee, W. Va., plant of Wheeling-Pittsburgh Steel Corp. who became totally or partially separated from employment on or after November 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19086 Filed 7-10-78; 8:45 am]

[4510-28]

[TA-W-2746, 2743, 2742]

WHEELING-PITTSBURGH STEEL CORP., YORKVILLE, STEUBENVILLE, AND MINGO JUNCTION, OHIO

Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2746, 2743, and 2742 investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 7, 1977, in response to worker petitions received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Yorkville, Steubenville, and Mingo Junction, Ohio, plants of Wheeling-Pittsburgh Steel Corp.

The notices of investigation were published in the FEDERAL REGISTER on December 30, 1977 (43 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The investigation revealed that the Yorkville, Ohio, plant produces cold-rolled sheet, black plate, blue plate, tin plate, and tin-free steel from steel produced at the Steubenville plant.

The Steubenville plant includes facilities in Steubenville and Mingo Junction, Ohio, and Follansbee, W. Va. The Steubenville plant is a basic steel plant. Some of the plant's output is hot- and cold-rolled sheet and strip which is sold to trade. The remaining portion of the plant's output is shipped unfinished to other plants of Wheeling-Pittsburgh, principally, Yorkville, Ohio; Martins Ferry, Ohio; and Benwood, W. Va. Workers at the Benwood and Martins Ferry plants have been certified eligible to apply for adjustment assistance by the Department in previous cases (see TA-W-1472 and 1572).

Finished steel sold from the Steubenville plant and unfinished steel which is shipped to the Yorkville, Benwood, and Martins Ferry plants account for over 90 percent of the total output of the plant.

Imports of cold-rolled carbon steel sheet increased in 1976 from 1975 and increased 42 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 13.2 percent in 1976 to 19.4 percent in 1977.

Imports of black plate and blue plate increased in 1976 from 1975 and increased 34 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 2.1 percent in 1976 to 2.7 percent in 1977.

Imports of tin plate decreased in 1976 from 1975 and increased 44 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 6.4 percent in 1976 to 9.3 percent in 1977.

Imports of tin-free steel increased in 1976 from 1975 and increased 74 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 6.2 percent in 1976 to 10.6 percent in 1977.

Imports of hot- and cold-rolled carbon steel sheet and strip increased in 1976 from 1975 and increased 50 percent in 1977 from 1976. The ratio of imports to domestic shipments increased from 11.8 percent in 1976 to 18.6 percent in 1977.

Customers of Wheeling-Pittsburgh decreased purchases of hot- and cold-rolled sheet and strip, black plate, blue plate, tin plate, and tin-free steel from Wheeling-Pittsburgh and increased import purchases in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with various steel products produced at the Yorkville, Steubenville, and Mingo Junction, Ohio, plants of Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in sales and production and to the total or partial separation of workers at those plants.

In accordance with the provisions of the act, I make the following certifications:

All workers at the Yorkville, Steubenville, and Mingo Junction, Ohio, plants of Wheeling-Pittsburgh Steel Corp., who became totally or partially separated from employment on or after November 1, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19087 Filed 7-10-78; 8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 78-8]

EMPLOYEE BENEFIT PLANS

Exemption from the Prohibitions Relating to a Transaction Involving the Heavy and General Laborers' Welfare Fund of New Jersey

AGENCIES: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains a grant of an exemption by the Department of Labor (the Department) from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). This exemption enables the Heavy and General Laborers' Welfare fund of New Jersey (the Plan) to purchase a parcel of property from the Heavy and General Laborers' Local No. 472 (the Union).

FOR FURTHER INFORMATION CONTACT:

Stephen Elkins of the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, 202-523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 25, 1977 notice was published in the FEDERAL REGISTER (42 FR 56378) of the pendency before the Department of an exemption from the provisions of section 406(a)(1) and 406(b)(2) of the Act, for a transaction described in an application submitted by the trustees of the Plan. The notice set forth a summary of the facts and representations contained in the application for exemption, and referred interested persons to the application for the complete statement of the facts and representations.

On March 21, 1978, notice was published in the FEDERAL REGISTER (43 FR 11773), correcting a typographical error which appeared in the notice of pendency published on October 25, 1977.

The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the requested exemption. No comments or requests for a public hearing were received by the Department.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The exemption does not extend to transactions prohibited under section 406(b)(1) and (b)(3) of the Act;

(3) The exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction;

(4) In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and based upon the entire record, the Department makes the following determinations:

(i) The exemption is administratively feasible;

(ii) The exemption is in the interests of the Plan and of the participants and beneficiaries of the Plan; and

(iii) The exemption is protective of the rights of participants and beneficiaries of the Plan.

EXEMPTION

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA procedure 75-1.

The restrictions of section 406(a)(1) and 406(b)(2) of the Act shall not apply to the purchase by the Plan of a certain parcel of property located at 680-692 Raymond Boulevard, Newark, from the Union, subject to the terms, conditions, and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of June 1978.

IAN D. LANOFF,
Adminstrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-19033 Filed 7-6-78; 1:12 pm]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON RADIOLOGICAL EFFECTS AND SITE EVALUATION

Meeting

The ACRS Subcommittee on Radiological Effects and Site Evaluation will hold an open meeting on July 26, 1978, in room 1046, 1717 H Street NW., Washington, D.C. 20555, to review Regulatory Guide 1.98, Rev. 1, "Methods for Determining the Technical Specification Limit on Activity Release at the Main Condenser Vacuum System of Boiling Water Reactors." Notice of this meeting was published in the FEDERAL REGISTER on June 17, 1978 (43 FR 26162).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JULY 26, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the Executive Session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review. The subcommittee may then caucus to determine

whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1413 between 8:15 a.m. and 5 p.m., e.d.t.

Dated June 29, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-19142 Filed 7-10-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON WASTE MANAGEMENT

Meeting

The ACRS Subcommittee on Waste Management will hold an open meeting on July 26, 1978, in room 1046, 1717 H Street NW., Washington, D.C. 20555, to review Nureg 0436, "Plan for Reevaluation of NRC Policy on Decommissioning of Nuclear Facilities," and Nureg/CR 0130, "Technology Safety, and Cost of Decommissioning a Reference PWR Powerplant" (scheduled for publication on or about June 30, 1978). Notice to this meeting was published in the FEDERAL REGISTER on June 17, 1978 (43 FR 26162).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JULY 26, 1978

10:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to the agenda items. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1413 between 8:15 a.m. and 5 p.m., e.d.t.

Dated: June 29 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-19143 Filed 7-10-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443 and 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL., (SEABROOK STATION, UNITS 1 AND 2)

Prehearing Conference

JULY 5, 1978.

Notice is hereby given that, in accordance with the terms of the "Notice of Prehearing Conference" issued by the Appeal Board on July 5, 1978, a prehearing conference will be conducted by the Appeal Board on Tuesday, July 25, 1978, commencing at 10 a.m. in the *Licensing Board Panel conference room*, 4th floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Md.

Dated: July 5, 1978.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-19141 Filed 7-10-78; 8:45 am]

[7590-01]

TRANSPORTATION OF RADIONUCLIDES IN URBAN ENVIRONS

Public Meeting

The Nuclear Regulatory Commission (NRC) staff is planning an informal workshop on the transport of radionuclides in urban environs for July 25, 1978. This informal workshop starting at 2:30 p.m. will be held in the main conference room of the Ford Foundation, 320 East 43d Street, New York, N.Y. The title of the workshop is "The Urban Transportation Study—Looking Ahead; Status, Goals, and Approaches."

The NRC has previously announced (42 FR 12271) its intent to prepare a generic environmental impact statement on the transportation of radionuclides in urban environs. This environmental impact statement on the transportation of radioactive material near, in, and through a large densely populated area is being prepared in connection with a reevaluation of present regulations as indicated in the advance notice of rulemaking proceedings published June 2, 1975 (40 FR 23768), and pursuant to the National Environmental Policy Act of 1969 (83 Stat. 852).

The generic environmental impact statement will consider such unique facets of the urban setting as:

(1) High population density: Heavy pedestrian traffic; diurnal variations in population; and horizontal vertical distribution.

(2) Unique transportation environment: Convergence of transportation routes; heavy traffic; many users and holders of radioactive materials; and different safeguards environment.

(3) Special effects: Effects of local and micrometeorology, and shielding effects of buildings.

Emphasis will be placed on radiological health effects, but all environmental impacts, both radiological and nonradiological, will be assessed.

The NRC staff has selected Sandia Laboratories, Albuquerque, N. Mex., to perform an environmental assessment, upon which the generic environmental impact statement will be largely based. To help in its environmental analysis, Sandia Laboratories has formed an ad hoc task group (AHTG) to provide a forum for the exchange of ideas and information between experts. The broadly based membership of the AHTG includes persons associated with government (local, State, and Federal), industry, academia, and environmental activist groups. Meetings of the AHTG are open to the public.

Dates and locations of previous AHTG meetings are: Sept. 20, 1976—New York, N.Y.; Nov. 16-17, 1976—Arlington, Va.; Mar. 29-30, 1977—Baltimore, Md.; and July 13-14, 1977—Houston, Tex.

Minutes of these meetings are placed in the USNRC Public Document Room, 1717 H Street NW., Washington, D.C., as they become available.

Sandia Laboratories is planning a fifth and final meeting of the AHTG for July 24-25, 1978, beginning at 9 a.m., in the main conference room of the Ford Foundation, 320 East 43d Street, New York, N.Y. The primary purpose of the fifth meeting of the AHTG is to discuss the preliminary report, "Transport of Radionuclides in Urban Environs: Working Draft Assessment," given to NRC by Sandia Laboratories late in May 1978. This preliminary report discusses the assessment methodology and presents

estimates of environmental impacts for an urban area resulting from accident-free transport, vehicular accidents, human error, and sabotage incidents. Although it is a preliminary report copies of the report are available to members of the public on request from:

1. U.S. Nuclear Regulatory Commission, Office of Standards Development, Transportation and Product Standards Branch, 5650 Nicholson Lane, Rockville, Md. 20853, Attn.: Norman A. Eisenberg, telephone 301-443-6910.
2. Sandia Laboratories, Fuel Cycle Risk Analysis, Division 5413, Albuquerque, N. Mex. 87115, Attn.: Arthur R. DuCharme, telephone 505-264-5571.
3. U.S. Environmental Protection Agency, Region II: Regional Office of Radiation Programs, Attn.: Paul Giardina, Chief, Room 907J, 26 Federal Plaza, New York, N.Y. 10007.

Copies of the working draft assessment are also available for public inspection at:

1. The NRC Public Document Room, 1717 H.Street NW., Washington, D.C. 20555.
2. The NRC's five Regional Offices of Inspection and Enforcement; Region I: 631 Park Avenue, King of Prussia, Pa. 19406; Region II: Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303; Region III: 799 Roosevelt Road, Glen Ellyn, Ill. 60137; Region IV: Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012; and Region V: Suite 202, 1999 North California Boulevard, Walnut Creek, Calif. 94596.
3. The four major reference collections of the New York City Public Library.

After consideration of comments received at the fifth AHTG meeting, Sandia Laboratories will prepare and submit to NRC a draft assessment in September 1978. The NRC staff plans to issue a draft environmental statement (DES) late in 1978 based largely upon the Sandia Laboratories draft assessment.

Upon preparation of the DES, the NRC will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft generic environmental impact statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments on Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the NRC staff will prepare a final generic environmental impact statement, the availability of which will be published in the FEDERAL REGISTER.

The informal workshop conducted by the NRC staff, planned for July 25, in part, is in recognition of the transition in emphasis from preparation of a technical assessment by Sandia Laboratories to the formulation and proposal of regulatory options by the NRC staff. A transcript of the proceedings will be prepared and made available in the NRC public document room. Among the topics that may be discussed at this informal workshop are:

(1) Current status: (a) NRC staff plans for the draft environmental statement; (b) adequacy of the Sandia Laboratories assessment; (c) current regulations; and (d) related events and activities.

(2) Goals: (a) Suggested public health and safety goals; (b) suggested regulatory actions; and (c) suggested improvements in the environmental assessment.

(3) Approaches: (a) Distribution of regulatory responsibility among the various Federal agencies (e.g., NRC, DOT, EPA); (b) distribution of regulatory responsibility among the various Federal, State, and local governments; (c) potential legislative changes; and (d) the role of public meetings.

In keeping with the previous efforts throughout this study to obtain early public input, interested persons are encouraged to attend both the NRC and Sandia public meetings. Interested persons are invited to attend the meeting to ask questions or make comments and suggestions on the regulatory activities associated with the environmental impact statement and the preliminary Sandia report. Written comments may be submitted at the meeting or at any time to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section. Further information on these meetings, the working draft assessment, or the study in general may be directed, as appropriate, to individuals at the NRC or Sandia Laboratories as listed above.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 5th day of July 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-18988 Filed 7-10-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14928]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 5, 1978.

On April 17, 1978, the American Stock Exchange, Inc. filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14766, May 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 22112, May 23, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-18989 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 14923]

BOSTON STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 5, 1978.

On April 17, 1978, the Boston Stock Exchange, Inc. filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s) (b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14767, May 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 22113, May 23, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in ac-

cordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19000 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 14907]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

JUNE 29, 1978.

On May 5, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which would incorporate into CBOE rules the industrywide shorthand of "fill-or-kill" ("FOK") for immediate all-or-none orders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14778, May 17, 1978) and by publication in the FEDERAL REGISTER (43 FR 22472, May 25, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to registered national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19001 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 34-14905; File No. SR-CBOE-1978-19]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 22, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

ARTICLE VI—BOARD OF DIRECTORS: NUMBER, ELECTION, AND TERM OF OFFICE OF DIRECTORS

SEC. 6.1. The board of directors shall be composed of 21 directors, 15 of whom shall be members or executive officers of member organizations of the exchange and shall be elected by the membership of the exchange, 3 of whom shall not be members of the exchange and shall be appointed by the President and approved by the Board to represent the public, and the chairman of the board, the vice chairman of the board and the president, who by virtue of their offices shall be members of the board. At least 6 of the 15 elected directors shall be members who individually either own or directly control their memberships on the exchange and are primarily engaged in business on the exchange floor (floor directors) and at least 6 of the 15 elected directors shall be executive officers of member organizations and shall individually not be primarily engaged in business activities on the exchange floor (off-floor directors). Of the off-floor directors, [at least three shall be members and] at least three shall have as their ordinary place of business a location more than 80 miles from the exchange's trading floor. The remaining 3 of the 15 elected directors shall be members who function in any recognized capacity either individually or on behalf of a member organization. At the annual election meeting next occurring subsequent to the effective date of the constitutional amendment increasing the members of the board to 21 from 15, a total of 9 directors shall be elected, of which 2 directors shall serve a term of 1 year, 2 directors shall serve for a term of 2 years and 5 directors shall serve for a term of 3 years. At each subsequent annual election meeting, five directors shall be elected, at least 2 shall be off-floor directors of which [at least one shall be a member and] at least one shall be a nonresident; at least two shall be floor directors. All of such directors, including the one appointed director chosen by the board at the first regular meeting of directors following the annual election meeting, shall succeed those directors whose terms expire and shall serve for a term of 3 years. Each director shall hold office for the term to which he is elected or appointed and until his successor is duly elected or appointed and qualified or until his earlier death, resignation or removal.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendment to section 6.1 of the CBOE constitution is to improve the CBOE structure of governance.

With regard to the proposed amendment to section 6.1 of the CBOE constitution, the present requirement that a minimum number of directors who are executives of member firms be individual exchange members is believed to have created artificial constraints upon the exchange's ability to attract qualified persons to volunteer to serve on the board of directors. Therefore, it is proposed that section 6.1 of the CBOE constitution be amended to delete the requirement that at least three of the six executive officers of member firms (known as "off-floor" directors) be members of the exchange. The CBOE has thus far been fortunate to find the requisite number of high caliber member firm executives who have either had to have their firms purchase or have transferred to them memberships on this exchange in order to qualify for board membership. Such requirement is now viewed as an unnecessary burden to place upon the type of individual which the CBOE hopes could be attracted to devote his time and energies to the responsible governance of this exchange.

The foregoing proposal is consistent with sections 6(b)(3) and 6(b)(5), for it operates to: (1) Assure a fair representation of exchange members in the selection of exchange directors and administration of exchange affairs, and (2) protect investors and the public interest.

This proposed rules change was submitted to a vote of the membership on June 20, 1978 (see item 2).

The CBOE does not believe that this proposal imposes any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission,

Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 29, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19014 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 34-14906; File No. SR-CBOE-1978-20]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 22, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

ARTICLE III—MEETINGS OF MEMBERS: SPECIAL MEETINGS

Sec. 3.4. Special meetings of members for any purpose or purposes, unless otherwise prescribed by statute or by the certificate of incorporation, may be called by the chairman of the board, the president or the board of directors and shall be called by the secretary at the request in writing of [50] *150* members, provided that such request shall state the purpose or purposes of the proposed meeting and the day and hour at which such meeting shall be held.

ARTICLE XII—AMENDMENTS: RULES

Sec. 12.2. The rules may be amended by the affirmative vote of a majority of the directors present at a meeting at which such amendment is proposed, provided, however, that promptly upon adoption of an amendment to the rules, notice thereof shall be sent to each member, and within 15 days after such notice has been given, [50] *150* or more members may request in writing that a special meeting of members be held to vote upon whether the amendment to the rules shall be approved. The notice of the meeting shall state that the approval of such a proposed amendment will be considered.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendments to sections 3.4 and 12.2 of the CBOE constitution is to improve the CBOE structure of governance.

With respect to the proposed changes in sections 3.4 and 12.2. of the CBOE constitution, it is believed that the present ability of only 50 of the present CBOE membership of approximately 1,265 to call a special meeting of members provides potential for the abuse of the CBOE's democratic processes. This requirement was created appropriately when the level of membership on CBOE was 400 to 500. Inasmuch as the size of the membership has grown considerably since April 1973, the present requirement subjects the board of directors and the membership to the costly and time-consuming process of special meetings of members on subjects which conceivably could only be of interest to less than 5 percent of the CBOE membership. Consequently, it is believed that if the requirement for the submission of valid petitions, pursuant to section 3.4 and 12.2 of the constitution, to call special meetings of members were increased from 50 to 150, minority membership views would still have the opportunity of exposure to a full membership vote. However, the increased sponsorship of such views, inherent in the greater members signature requirement for petitions, would insure that any matter subject to such a petition would have significance for all members.

Each of the foregoing proposals is consistent with sections 6(b)(3) and 6(b)(5), for each operates to: (1) Assure a fair representation of exchange members in the selection of exchange directors and administration of exchange affairs, and (2) protect investors and the public interest.

These proposed rules changes were submitted to a vote of the membership on June 20, 1978 (see item 2).

The CBOE does not believe that these proposals impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 29, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19015 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 20613]

COLUMBIA GAS SYSTEMS, INC. AND COLUMBIA GAS SYSTEM SERVICE CORP.

Proposed Increase in Return on Captial Stock of Subsidiary

JUNE 30, 1978.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and Columbia Gas System Service Corp. ("Service"), its wholly owned subsidiary, have filed with this Commission a post-effective amendment to the joint declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 13 of the act and rules 90 and 91 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the said declaration, which is summarized below, for a complete statement of the proposed transaction.

Service provides accounting, auditing, rate, stationery, insurance, depreciation, research, tax, environmental, financial, legal, statistical, electronic data processing, and general advisory services to the affiliated operating company subsidiaries of Columbia. Subsidiaries of Columbia are billed by service on a monthly basis to cover its operating costs and a return on invested capital for services requested. Service proposes to increase the compensation allowed on its capital stock owned by Columbia in order to adjust for increases in costs of capital that have occurred since 1976, which were the costs upon which the current compensation was based.

By order dated April 28, 1978 (HCAR No. 20524), this Commission authorized an increase in the return which Service is permitted to charge the other subsidiaries of Columbia and

Columbia for services provided by Service. The return which was authorized in that order was based upon an overall rate of return of 9.49 percent authorized by the Federal Energy Regulatory Commission ("FERC"), in its order of September 13, 1976. Our order of April 28, 1978, stated that the 9.49 percent overall rate of return would remain in effect until a new rate or return was authorized by FERC.

By order dated March 16, 1978, FERC approved a settlement agreement in FERC Docket Nos. RP76-94, RP76-95, RP76-138, and RP75-106 in which settlement, costs of service were based upon an overall rate of return of 9.94 percent.

Declarants seek authorization in the present post-effective amendment to increase the return Service is permitted to charge the other subsidiaries of Columbia and Columbia for services provided by Service. Declarants propose such increased return be based upon the 9.94 percent overall rate of return authorized by FERC in its order of March 16, 1978. The proposed return would remain in effect until such time as a new rate of return is authorized by FERC.

Cost of debt capital to Columbia has ranged from 7 percent on debentures issued in 1968 to 10⅛ percent on debentures issued in 1975, and the most recent issue of debentures in 1976 reflects an interest rate of 9⅛ percent. It is estimated that a new issue of debentures of Columbia at the present time would carry an interest rate of approximately 9½ percent. It is stated that with current long-term interest rates on long-term debt of Columbia at a 9½ percent level, it is not unreasonable that the cost of equity capital, which capital has a junior position in the capital structure and therefore bears greater financial risk than does senior capital, should be approximately 13.5 percent.

Since 80 percent of the investment in regulated subsidiaries is in transmission subsidiaries, it is proposed that the compensation on capital stock allowed Service be based on the 9.94 percent overall rate of return authorized by FERC in its order of March 16, 1978. The 9.94 percent overall rate or return allowed by the FERC to transmission subsidiaries of Columbia reflected both equity and debt costs. Applying the 9.94 percent overall rate of return to the total capitalization of Service at December 31, 1977, results in a total return allowance of $1,463,642 and subtracting the 1977 interest costs of $382,083 results in an allowance for equity of $1,081,559 or a return of 12.9 percent on present equity outstanding. With reference to rule 91 under the Act, it is stated that Service believes such compensation to be reasonable. It is further stated that Service charges to associated would increase by approximately $1,100,000 annually.

Service further proposes to limit its capital stock to $8,400,000, the amount presently outstanding, representing 84,000 shares of common stock at a par value of $100 per share. No additional shares of capital stock are presently authorized.

It is stated that additional long-term financing of Service will be provided through the issuance of installment promissory notes, at least until the capital structure of Service has substantially the same ratio of long-term debt capital to equity capital as does the consolidated capital structure of Columbia and its subsidiaries.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated to be approximately $1,000.

Notice is further given that any interested person may, not later than July 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19002 Filed 7-10-78; 8:45 am]

[8010-01]

[File No. 81-315]

CONTINENTAL TELEPHONE CO. OF VIRGINIA

Application and Opportunity for Hearing

JUNE 30, 1978.

Notice is hereby given that Continental Telephone Co. of Virginia ("Applicant") has filed an application pursuant to section 12(h) of the Security Exchange Act of 1934, as amended (the "Exchange Act") for an order exempting the Applicant from the obligation to file an annual report on form 10-K for the year ended December 31, 1977, and all other reports required to be filed pursuant to sections 13 or 15(d) of the Exchange Act.

Applicant states in part that:

(1) Applicant, a Virginia corporation, is a wholly owned subsidiary of Continental Telephone Corp. ("Continental"). The Applicant was formed May 30, 1975, by merging four Virginia-based wholly owned telephone operating subsidiaries of Continental.

(2) The Applicant had outstanding as of March 13, 1978, approximately $910,000 principal amount of 7.25 percent convertible subordinated debentures, due May 1, 1990 (the "Debentures"). Issued in 1970 by a predecessor corporation of the Applicant, the debentures are convertible into the common stock of Continental, pursuant to a supplemental indenture executed by a predecessor of the Applicant on July 15, 1971.

(3) The debentures are registered pursuant to section 12(g) of the Exchange Act.

(4) The debentures are owned by 278 persons, and there is very little trading.

(5) Each holder of a debenture is furnished annually a copy of Continental's annual report to shareholders.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person, no later than July 5, 1978, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

Service list: Louis S. Grande, Continental Telephone Service Corp., Dulles International Airport, 201 West Service Road, P.O. Box 401, Merrifield, Va. 22116.

[FR Doc. 78-19003 Filed 7-10-78; 8:45 am]

[8010-01]

[Rel. No. 10304]

HIGHLAND CAPITAL CORP. AND VITT MEDIA INTERNATIONAL, INC.

Filing of Application Pursuant to Section 17(b) of the Act for an Order Exempting a Proposed Transaction From the Provisions of Section 17(a) of the Act

JUNE 30, 1978.

Notice is hereby given that Highland Capital Corp. ("Highland"), a non-diversified, closed-end, management investment company registered under the Investment Company Act of 1940 ("Act"), and Vitt Media International, Inc. ("VMI") (Highland and VMI are sometimes referred to herein collectively as the "Applicants") filed an application on January 27, 1978, and an amendment thereto on May 31, 1978, pursuant to section 17(b) of the Act, for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale by Highland and the purchase by VMI of 200,000 shares of VMI common stock owned by Highland for $400,000 or two dollars per share. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Highland was organized in March 1969, as a Delaware corporation under the name "Price Capital Corp.", and adopted its present name on June 1, 1973. At December 31, 1977, there were 1,017,449 shares of common stock of Highland issued and outstanding, which were held by approximately 1,200 shareholders. Highland's common stock is listed on both the American and Philadelphia Stock Exchanges.

VMI was organized as a Delaware corporation in September 1969, and is privately held. VMI is an independent media planning and purchasing specialist, and its services include media research, planning and buying, and syndication of television series for its clients. There are 714,000 shares of VMI common stock issued and outstanding, with 430,500 shares (approximately 60.3 percent) being owned by Mr. Samual B. Vitt ("Mr. Vitt"), an aggregate of 27,000 shares (approximately 3.8 percent) being owned by Marie Vitt and Edwin Robbins, as trustees, under separate trust agreements for the benefit of each of Mr. Vitt's three children, 200,000 shares (approximately 28 percent) being owned by Highland, and 56,500 shares (approximately 7.9 percent) being owned by five other stockholders. Mr. Vitt is the founder, president and chief executive officer, a director and the principal stockholder of VMI.

In October 1969, pursuant to the terms of a purchase agreement dated October 3, 1969 (the "1969 Purchase Agreement") among Highland, VMI, Mr. Vitt and certain other persons, Highland purchased 200,000 shares of preferred stock of VMI for an aggregate purchase price of 200,000 (or $1 per share). Pursuant to the provisions of VMI's Certificate of Incorporation, on or after October 1, 1970, each share of VMI preferred stock was convertible into one share of VMI common stock.

On September 9, 1974, Highland voluntarily converted its 200,000 shares of VMI preferred stock into 200,000 shares of VMI common stock. In order to induce Highland to convert its shares of VMI preferred stock into shares of VMI common stock, on September 9, 1974, VMI and Mr. Vitt entered into an agreement with Highland (the "1974 Agreement") which conferred upon Highland substantially the same rights as a holder of VMI common stock as it had had as a holder of VMI preferred stock pursuant to the 1969 agreement.

Under the 1969 purchase agreement, certain covenants ran from Mr. Vitt to certain holders of VMI preferred stock (including Highland) whereby Mr. Vitt agreed that, as long as he remained the controlling stockholder of VMI, he would not permit VMI to engage in certain specified transactions without the piror written consent of the holders of a majority of the outstanding shares of VMI preferred stock. Substantially the same covenants which were part of the 1969 purchase agreement were included in the 1974 agreement. VMI's Certificate of Incorporation gave VMI the right, exerciseable at any time after October 1, 1970, to call for redemption at a price of $1 per share (the issue price) outstanding shares of preferred stock; however, the holders of preferred stock (including Highland) could convert their shares of preferred stock into shares of common stock prior to the redemption date, in which event VMI's redemption right, as well as the covenants running from Mr. Vitt to such holders of preferred stock (including Highland) pursuant to the 1969 purchase agreement, would terminate. Similarly, under the terms of the 1974 agreement, VMI had the option to purchase Highland's holdings of VMI common stock at any time at a price of $1 per share. However, Highland was entitled to refuse to sell its shares of VMI common stock to VMI, in which event the covenants under the 1974 agreement running from Mr. Vitt to Highland would terminate.

In accordance with the terms of the 1974 agreement, on October 26, 1977, VMI exercised its option to purchase Highland's 200,000 shares of VMI common stock at a price of $1 per share. On October 27, 1977, Highland notified VMI that Highland elected not to sell to VMI its 200,000 shares of VMI common stock. As a result of Highland's refusal to sell, the covenants running from Mr. Vitt to Highland under the 1974 agreement were terminated.

On December 9, 1977, Highland and VMI entered into an agreement (the "1977 Purchase Agreement") pursuant to which VMI agreed to purchase from Highland the 200,000 shares of VMI common stock owned by Highland for an aggregate purchase price of $400,000 (or $2 per share). The 1977 purchase agreement provides that consummation of the transaction contemplated thereby is subject to the issuance of an order by the Commission pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the sale by Highland and the purchase by VMI of the 200,000 shares of VMI common stock owned by Highland. Such an order is being sought in this application. On April 18, 1978, by an amendment to the 1977 purchase agreement, Highland and VMI agreed to extend from August 9, 1978, to December 9, 1978, the termination date of the 1977 purchase agreement if the above required order has not been received.

Section 17(a) of the Act, in pertinent part, makes it unlawful for any affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, knowingly to sell any security or other property to, or purchase any security or other property from, such registered company (other than securities of which the investment company is the issuer) unless an application for an order exempting such proposed transaction from the provisions of section 17(a) of the Act has been filed with the Commission pursuant to section 17(b) of the Act and such application has been granted by order of the Commission. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the

proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Applicants state that Highland presently owns more than 5 percent of the total number of shares of VMI common stock presently outstanding. Accordingly, VMI and Highland are affiliated persons of each other within the meaning of section 2(a)(3) of the act. Therefore, the proposed repurchase by VMI of all the VMI common stock held by Highland might be deemed to constitute the sale of a security by a registered investment company to an affiliated person of such investment company and, concurrently, the purchase of a security by such investment company from an affiliated person thereof. Accordingly, applicants request an order exempting the proposed transaction from the provisions of section 17(a) of the act pursuant to section 17(b).

In support of the relief requested, applicants state that negotiations culminating in the execution of the 1977 purchase agreement were initiated by Highland in August 1977. From August 1977, through the latter part of November 1977, Highland and VMI engaged in arms length negotiations, including face to face meetings and correspondence. Negotiations on behalf of Highland were conducted by Mr. Walter Scheuer, Chairman of the Board of Highland. Negotiations on behalf of VMI were conducted by Mr. Vitt and two other directors of VMI who are also senior officers of VMI. Mr. Edwin Robbins, President and a director of Highland and also an outside director of VMI, did not actively participate in the negotiations because of his relationship with both Highland and VMI. The respective Boards of Directors of Highland and VMI unanimously authorized the transaction contemplated by the 1977 purchase agreement, with Mr. Robbins abstaining from voting in each instance.

The applicants submit that the purchase price of $2 per share is fair to both Highland and VMI; and in support of the application state that in agreeing to effect the proposed purchase and sale of shares at $2 per share they considered, among other things: (1) The fact that the limited number of sales of shares of VMI common stock that have occurred since October 1976, were based on a price of approximately $2 per share, (2) the average per share net earnings of VMI over its last two fiscal years, and VMI's estimated per share net earnings for its fiscal year ending August 31, 1978, (3) the price-earnings multiples of publicly held companies engaged in similar types of business as VMI, (4) the facts that (a) there is no public market for shares of VMI common stock and Highland's holdings of such shares are thus highly illiquid, (b) other than persons or entities who invested in VMI shortly after its formation and other than VMI employees, no person or entity has ever purchased shares of VMI stock, and (c) Highland's investment in VMI, although substantial, represents a minority interest in VMI, (5) the history of VMI's paying dividends on its common stock only twice during the last 5½ years, and (6) the fact that the book value of VMI's common stock was $1.78 per share (audited) on August 31, 1977. It should be noted that the book value of VMI's common stock was $2.09 per share (unaudited) on February 28, 1977.

The applicants submit that it is in the best interests of VMI to purchase the 200,000 shares of VMI common stock held by Highland at this time. The applicants point out that except for 5,000 shares of common stock owned by one investor, Highland is the only VMI shareholder who is not a present or former employee of VMI; and that there are no contractural restrictions limiting Highland's ability to sell the shares to a third party. VMI's Board of Directors is of the view that it is in the best interests of VMI not to have a substantial outside investor with whom it does not have a long standing relationship as it does with Highland. In addition, as a result of the purchase of the shares from Highland and the resulting lesser number of shares outstanding, earnings per share of VMI will increase materially. Finally, the applicants note that the shares repurchased will be available in the future for sale to key VMI employees if such is deemed to be desirable.

The applicants also submit that consummation of the 1977 purchase agreement is in the best interests of Highland. Highland is of the view that the proposed purchase price for the shares is fair. The price of $2 per share is the value which the Highland Board of Directors, in accordance with the provisions of the act, has determined in good faith to be the fair value of the shares. The Highland Board of Directors, in reaching a good faith determination that the proposed purchase price of $2 per share is fair, considered VMI's entire financial history and discussions between Highland's management and VMI's management about VMI's expectations as to future profitability. The Highland Board of Directors also considered the illiquidity of its investment in VMI and the fact that Mr. Vitt (as owner of approximately 59 percent of VMI's common stock at the time the 1977 purchase agreement was entered into) was the controlling stockholder.

The applicants further submit that the consummation of the proposed transaction is consistent with Highland's investment policy. They point out that Highland has maintained its investment in VMI for more than 8 years and, although Highland has been pleased with the growth of VMI's revenues and earnings, Highland's Board of Directors has determined that it is not desirable for Highland to continue to maintain a substantial holding (representing approximately 4 percent of Highland's unaudited net assets as at December 31, 1977) in the form a single illiquid investment. In addition, the applicants note that the capital gain which will be realized by Highland if the proposed transaction is consummated will be offset by capital loss carryforwards available to Highland.

Based on the above analysis the applicants finally submit that the terms of the proposed sale by Highland and the purchase by VMI of the 200,000 shares of VMI common stock owned by Highland for $400,000 or $2 per share, including the purchase price, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that such proposed purchase and sale of shares is consistent with the investment policy of Highland and with the general purposes of the act. Accordingly, the applicants request an order of the Commission exempting the proposed purchase and sale of shares from the provisions of section 17(a) of the act.

Notice is further given that any interested person may, not later than July 25, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19004 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 10306]

LASTARMCO INC.

Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Company has Ceased To be an Investment Company

JULY 3, 1978.

Notice is hereby given that Lastarmco Inc. ("Applicant"), a closed-end, nondiversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 24, 1978, and an amendment thereto on June 20, 1978, pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicant, organized under the laws of the State of Louisiana, registered with the Commission under the Act on April 8, 1968. Applicant states that it has never made a public offering of its securities and, consequently, no registration statement has ever been filed with respect to securities issued by the Applicant pursuant to the Securities Act of 1933.

Applicant states that on December 28, 1977, its shareholders approved a plan of reverse stock split and purchase ("Plan") by an affirmative vote of 105,311 shares or 80.2 percent of the issued and outstanding shares of Applicant's $10 par value common stock. There were no votes against adoption of the Plan. Under the terms of the Plan each share of previously outstanding $10 par value common stock of Applicant was automatically converted into .01 shares of reclassified $1,000 par value common stock of the Applicant. The Plan further provided that the company would purchase the resulting fractional share interests at net asset value.

Immediately prior to the effective date of the reverse stock split Applicant represents that it had 162 stockholders of record and approximately that number of beneficial owners of its securities. As a result of the reverse stock split and purchase of fractional share interests resulting therefrom, the Applicant now has 79 beneficial owners of its securities.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. As an issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities, the Applicant contends that it is excepted from the definition of investment company under section 3(c)(1) of the Act and is entitled to an order pursuant to section 8(f) of the Act declaring that it has ceased to be an investment company.

Applicant has created a cash fund from which its exchange agent will make payments for fractional share interests resulting from the reverse stock split. Otherwise, Applicant has retained its assets for the purpose of carrying on its business as previously conducted. Applicant has undertaken, however, that in the event the requested order pursuant to section 8(f) of the Act is issued declaring that it has ceased to be an investment company, Applicant will thereafter distribute annually to each of its remaining stockholders of record a copy of its audited and certified balance sheet and income statement, together with its customary annual report to stockholders. Applicant has further undertaken to mail a copy of the order to each of its remaining stockholders of record promptly after the issuance of such order.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 28, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19005 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 14927]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 5, 1978.

On April 10, 1978, the Midwest Stock Exchange, Inc., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14765, May 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 22114, May 23, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19006 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 34-14902; File No. SR-MSE-78-16]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "act"), 15 U.S.C. 78s(b)(1), as amended in Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 23, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

ADDITIONS ITALICIZED—[DELETIONS BRACKETED]

Article I

Transfer Fee

Rule 3. A transfer fee of $200 plus 10 percent of the purchase price of the membership with a maximum of $1,000 shall be paid by the applicant at the time of application, except that the transfer fee shall be $200 where a membership is transferred from a partner in a member firm to the firm or to one of its general partners, from an officer or director of a member corporation to the corporation or to a senior officer in the same member corporation.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is intended to reduce the transfer fee in light of the reduced value of memberships. The current $1,000 fee is out of line with the present value of the membership.

The proposed rule change is consistent with section 6 of the act and, in particular, section 6(b)(4) which requires that the rules of the exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

The Midwest Stock Exchange, Inc. has neither solicited nor received any comments on the proposal.

The Midwest Stock Exchange, Inc. believes that the proposal places no burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securites Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer the the file number referenced in the caption above and should be submitted on or before August 1, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 28, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19016 filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 14931]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 5, 1978.

On April 24, 1978, the New York Stock Exchange, Inc., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14768, May 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 22115, May 23, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19007 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 34-14908; File No. SR-NYSE-78-39]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s (b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on June 22, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF PROPOSED RULE CHANGE

The rule provides for increasing from $25 to $50 the amount of a gratuity which a member, allied member, member organization or employee may give to certain persons without prior written consent of the recipient's employer.

PURPOSE OF PROPOSED RULE CHANGE

On December 6, 1977 (SR-NYSE-77-37) and on February 17, 1978 (SR-NYSE-78-9) the New York Stock Exchange Inc. ("NYSE") filed with the Commission Information Memos concerning the interpretation of rule 350. Specifically, the policy applicable to this rule permits gratuities in excess of $25 with the prior consent of the recipient's employer and in the case of floor employees prior written consent of the employer and the Exchange. The amendments herin to rule 350 contain a structural modification to fully clarify the rule consistent with the stated policy.

Further, the rule proposal increases from $25 to $50 the amount of a gratuity which a member, allied member, member organization or employee may give to certain persons without prior written consent of the recipient's employer. The $25 limitation has been in effect for 15 years and the increase is

intended to take inflation into account.

Exchange policy is to leave the approval determination to the employer. Therefore, increasing the limit does not effectively change the NYSE's stated interpretation of the rule.

In addition, the reference to associate odd-lot broker and his odd-lock clerk has been deleted from the rule, since the NYSE no longer has such a broker.

BASIS UNDER THE ACT

The proposed changes are related solely to the administration and meaning of an existing rule and in no way affect the ability of the Exchange to carry out the purposes of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

No written comments were solicited or received with respect to the subject rule change.

BURDEN ON COMPETITION

The NYSE believes that the proposal imposes no burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 29, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19017 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 34-14935; File No. SR-NYSE-78-40]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 22, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NYSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The changes conform the rule relating to the retention of records of orders to the SEC rule, establish standards for the Exchange's authority to request information from members and member organizations and delete the Income and Expense Report Rule as obsolete.

NYSE'S STATEMENT OF PURPOSE OF PROPOSED RULE CHANGES

The SEC cited as inconsistent under the 1975 Amendments to the Securities Exchange Act of 1934 provisions of certain Exchange rules relating to record keeping and reporting requirements imposed on member organizations. Pursuant to discussions with the SEC staff, the Exchange has formulated amendments which it is believed will satisfy the Commission objections. A description of the Amendments follows:

(a) The rule requiring retention of records of orders for at least 3 years would be revised to conform to the SEC rule requiring that such records be kept for the first 2 years in an easily accessible place.

(b) The rule relating to questionnaires and reports would be amended to restrict the required information to that which is essential for the protection of customers and in the public interest. Authority to require such information is necessary to enable the Exchange to determine the adequacy of compliance with its rules relating to the financial responsibility or operational capability of members and member organizations. It is certainly conceivable that a particular industry situation may give rise to the need for additional information and/or surveillance.

(c) The rule requiring the filing of an income and expense report would be deleted as obsolete in view of the uniform reporting requirements.

BASIS UNDER THE ACT

(i) The changes are consistent with Section 6(b)(1) of the act. In general, they enable the Exchange to fulfill its regulatory responsibilities by enforcing compliance and carrying out the purposes of the act; (ii) is inapplicable; (iii) is inapplicable; (iv) is inapplicable; (v) the Exchange submits that the amendments are consistent with Section 6(b)(5) in that they provide protection for investors and of the public interest; (vi) is inapplicable; (vii) is inapplicable; and (viii) is inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

No comments were solicited or received on the subject amendments.

NYSE'S STATEMENT REGARDING BURDEN ON COMPETITION

None.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change; or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 6, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19102 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 14939]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 5, 1978.

On April 17, 1978, the Philadelphia Stock Exchange, Inc., filed with the

Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Acl-1 under the act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14769, May 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 22119, May 23, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore *ordered,* Pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19008 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 10299]

PIONEER FUND, INC., AND PIONEERING MANAGEMENT CORP.

Filing of Application Pursuant to section 17(d) of the Act and Rule 17d-1 Thereunder for an Order Permitting Proposed Transactions and Pursuant to Section 6(c) of the Act for an Order of Exemption From Rule 22c-1 Thereunder

JUNE 29, 1978.

Notice is hereby given that Pioneer Fund, Inc. ("Pioneer"), registered under the Investment Company Act of 1940 (the "act") as an open-end, diversified management investment company, and Pioneering Management Corp. ("Pioneering Management"), a registered investment adviser under the Investment Advisers Act of 1940 and the investment adviser of Pioneer, filed an application on May 17, 1978, and an amendment thereto on June 23, 1978, requesting an order: (1) Pursuant to section 17(d) of the act and rule 17d-1 thereunder, permitting Pioneering Management to pay for certain expenses of Pioneer in connection with a proposed acquisition by Pioneer of substantially all the assets of Egret Fund, Inc. ("Egret"), registered under the act as an open-end, diversified, management investment company, and (2) pursuant to section 6(c) of the act exempting from rule 22c-1 under the act the proposed issuance of Pioneer shares at a price computed prior to the proposed transaction. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the transaction to which the application relates will be effected pursuant to an agreement and plan of reorganization (the "agreement") between Pioneer and Egret. Under the agreement, Pioneer, a Massachusetts corporation, will acquire all the assets and properties of Egret, a Massachusetts corporation, in exchange for part of Pioneer's shares of voting common stock. Applicants state that shares of Pioneer of an aggregate net asset value equal to the value of the assets of Egret acquired are to be issued by Pioneer in exchange for such assets of Egret. The values of the assets of Egret and the shares of Pioneer are to be determined in accordance with the procedures set forth in their respective articles of organization, as amended. Following the exchange of Egret's assets for Pioneer's stock, Egret will dissolve and liquidate. As part of the liquidation distribution, applicants represent that Egret will distribute to its shareholders in exchange for their shares of Egret capital stock, the Pioneer shares it receives upon the transfer of its assets to Pioneer. Each Egret shareholder will be entitled to receive that portion of the Pioneer shares to be received by Egret that the number of Egret shares owned by each shareholder bears to the number of Egret shares outstanding on the closing date, presently contemplated to be July 24, 1978.

Applicants state that Pioneer will assume all fees and expenses, including legal, accounting, printing, filing, and proxy soliciting expenses and portfolio transfer taxes, if any, incurred by Egret in connection with the proposed transaction. Pioneer will also assume the obligations of Egret, if any, with respect to statutory rights of appraisal. Applicants represent that Pioneering Management has agreed to reimburse Pioneer in full for any such expenses assumed or otherwise incurred by Pioneer in connection with the proposed transaction other than: (i) Brokerage expenses incurred in selling certain securities acquired from Egret, (ii) annual transfer agent fees of approximately $40,000 in respect of new shareholder accounts, and (iii) the costs of defending any action brought by a dissenting stockholder and the payment of any damages in respect thereof. Pioneering Management's obligation to reimburse Pioneer for all such expenses is not subject to any dollar limitation. Pioneer will not assume any liabilities of Egret in connection with the subsequent dissolution of Egret.

Applicants describe the expenses of Egret as including legal, accounting, printing, mailing, and proxy soliciting expenses, amounting to approximately $65,000. Expenses of Pioneer include legal, accounting, and registration fees amounting to approximately $40,000. The application states that if the reorganization is not consummated for any reason, Pioneer and Egret shall each bear the expenses relating to the agreement and the transaction contemplated thereby. The applicants represent that Pioneering Management has undertaken to reimburse Pioneer for such expenses.

Applicants state that Pioneer contemplates that it will sell a majority of the securities received from Egret and will reinvest the proceeds from such sales in securities of issuers already in Pioneer's portfolio, or in new investments. Applicants assert that Pioneer's ratio of net operating expenses to average net assets for the year ended December 31, 1977, was 0.74 percent. Pioneer estimates that such ratio would have been reduced to approximately 0.73 percent if the net assets of Egret had been acquired on January 1, 1977 (assuming the average net assets of Egret for 1977 would have been unchanged notwithstanding the acquisition).

Section 17(d) of the act, and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider: (1) Whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 2 (a)(3) of the act defines affiliated person of an investment company to include any investment adviser thereof. Accordingly, applicants have requested an order, pursuant to section 17(d) of the act and rule 17d-1 thereunder, to the extent necessary, to permit the proposed transactions be-

tween Pioneer and Pioneering Management.

Applicants assert that to the extent that Pioneer's participation in the transaction is different from that of Pioneering Management, Pioneer's participation is at least as advantageous as Pioneering Management. In this regard, applicants claim that while Pioneering Management will derive additional management fees from the assets acquired from Egret, Pioneer will be relieved of its expenses in connection with the transaction and, further, that consummation of the transaction will benefit Pioneer's shareholders since Pioneer will have a greater asset base against which to allocate expenses.

Applicants further state that any additional brokerage expenses (estimated not to exceed $30,000) incurred by Pioneer in selling approximately one-half of the securities which it receives from Egret will, in Pioneer's opinion be more than offset by brokerage commissions saved with respect to securities of Egret retained by Pioneer and by the benefits to be derived by Pioneer from Egret's realized capital loss carryover as of September 30, 1977, and net unrealized depreciation and realized capital losses as of March 31, 1978. They state that under present Federal income tax laws, Pioneer would be able to utilize approximately $800,000 of the loss carryover for the period as of September 30, 1977, assuming Pioneer recognized net capital gains of at least that amount before such loss carryover expired. Since net realized capital gains are generally distributed to stockholder who must recognize such gains for Federal income tax purposes, to the extent that net realized gains are offset by such loss carryover and not so distributed, the net asset value of Pioneer would be increased and the aggregate taxes paid by Pioneer stockholders on capital gains distributions of Pioneer would be reduced by an amount which would reflect the individual tax brackets of and other losses available to the stockholders.

Rule 22c-1(a) under the act permits consummation of transactions in the redeemable securities of a registered investment company only at a price based on the current net asset value of such security which is next computed after receipt of an order to purchase such security.

The agreement between Egret and Pioneer contemplates that the net assets of Egret and Pioneer will be valued at the close of business on the day that the Egret stockholders approve the sale of assets to Pioneer and that the closing will take place on the next business day. It is presently contemplated that such stockholder approval and such closing will occur on Friday, July 21, 1978, and Monday, July 24, 1978, respectively. Thus, the "forward pricing" requirement of rule 22c-1 would not be met.

Pioneer contends that it would be impracticable to comply with rule 22c-1, as the number of Pioneer shares to be issued is determined by dividing the net asset value per share of Pioneer into the total net assets of Egret. Such computation can be made only after the close of business when both portfolios can be fully valued. Pioneer further contends that valuation of Pioneer's assets on the business day next preceding the closing date would be fair to the stockholders of Pioneer and Egret and would not present any of the potential for abuse that rule 22c-1 is intended to avoid.

Section 6(c) of the act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the act or of any rule or regulation under the act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than July 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19009 Filed 7-10-78; 8:45 am]

[8010-01]

[File No. 500]

SYMMAR, INC.

Suspension of Trading

JUNE 30, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Symmar, Inc., being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.d.t.) on June 30, 1978, through July 9, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19010 Filed 7-10-78; 8:45 am]

[8010-01]

[Release No. 10305]

SYSTEMS VENTURE CAPITAL, INC.

Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 30, 1978.

Notice is hereby given that Systems Venture Capital, Inc. ("Systems"), a Florida corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 ("act"), has filed an application on March 27, 1978, and an amendment thereto on June 26, 1978, pursuant to section 8(f) of the act for an order of the Commission declaring that Systems has ceased to be an investment company as defined in the act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Systems asserts that: (1) It was incorporated on August 22, 1977, for the sole purpose of performing the function and conducting the activities contemplated under the Small Business Investment Act of 1958, and (2) it filed a notification of registration pursuant to section 8(a) of the act, dated December 16, 1977.

Systems states that: (1) It has not issued any stock, and (2) it does not presently have any assets or liabilities.

According to the application, Systems does not propose to pursue its application with the Small Business Administration, or to act, either directly

or indirectly, as a small business investment company, or to issue any securities, or to hold itself out as being engaged in the business of investing, reinvesting, or trading in securities or to engage in business of any kind.

Section 8(f) of the act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 25, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19011 Filed 7-10-78; 8:45 am]

[8010-01]

[File No. 81-354]

UNITEK CORP.

Notice of Application and Opportunity for Hearing

JUNE 30, 1978.

Notice is hereby given that Unitek Corp., ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 act") for an order granting applicant an exemption from the provisions of section 15(d) of the 1934 act.

The applicant states, in part:

1. On April 6, 1978, applicant merged into Ketinu Corp. and became a wholly owned subsidiary of Bristol-Myers, Inc. As a result of the merger, applicant no longer has any publicly owned common stock.

2. The applicant has filed with the Commission its proxy statement dated March 13, 1978, containing audited financial statements for the year ended December 31, 1977, plus a consolidated summary of operations of applicant for the 5 years ended December 31, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than July 25, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19012 Filed 7-10-78; 8:45 am]

[8010-01]

[File No. 81-332]

WESTERN CAROLINA TELEPHONE CO.

Notice of Application and Opportunity for Hearing

JUNE 30, 1978.

Notice is hereby given that Western Carolina Telephone Co. ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 act") for an order exempting the applicant from the obligation to file an annual report on form 10-K for the year ended December 31, 1977, and all other reports required to be filed pursuant to sections 13 and 15(d) of the 1934 act.

The application states in part that:

(1) Applicant, a North Carolina corporation, has only one class of equity securities, its $5 par value common stock (the "common stock").

(2) As of March 16, 1978, approximately 1,350,000 shares of applicant's common stock were outstanding. Of these shares, only 220,165, amounting to less than 2 percent, were held by the 209 shareholders other than the Continental Telephone Corp.

(3) Pursuant to rule 15d-6, applicant has filed with the Commission a notice of suspension of its duty to file reports under 15(d) for fiscal years ending after December 31, 1977.

(4) Trading of the common stock is inactive. With the exception of transfers made in connection with a tender offer by the applicant in December 1977, there have been five trades involving a total of 177 shares between September 1, 1977 and March 15, 1978.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than July 25, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19013 Filed 7-10-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1496]

INDIANA

Declaration of Disaster Loan Area

Marion County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by thunderstorms, torrential rain, high winds, tornadoes and

flash flooding which occurred on June 25, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 31, 1978 and for economic injury until the close of business on March 30, 1979, at: Small Business Administration, District Office, Federal Building, 5th Floor, 575 North Pennsylvania, Indianapolis, Ind. 46204.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 30, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-19021 Filed 7-10-78; 8:45 am]

[8025-01]

REGION IV ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Miami and Jacksonville will hold a combined public meeting at 9 a.m., on Friday, August 11, 1978, at the Cypress Gardens Motor Inn, Cypress Gardens, Fla. 33880, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Thomas A. Butler, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Boulevard, 5th Floor, Coral Cables, Fla. 33134, 305-350-5533.

Dated: June 5, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-19020 Filed 7-10-78; 8:45 am]

[8025-01]

[Application No. 04/04-5153]

UNIVERSAL FINANCIAL SERVICES, INC.

Notice of Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) has been filed by Universal Financial Services, Inc. (applicant), with the Small Business Administration pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

Gertrude Zipkin, 4307 Alton Road, Miami Beach, Fla. 33140, president and treasurer.

Norman Zipkin, 225 Northeast 35th Street, Miami, Fla. 33137, secretary.

Oto Berko, 1710 Meridian Avenue, Miami Beach, Fla. 33139, vice president.

The applicant will maintain its principal place of business at 225 Northeast 35th Street, Miami, Fla. 33137. It will begin operations with $500,000 of private capital derived from the sale of 1,000 shares to Norman Zipkin.

The applicant will conduct its operations in the Miami-Dade County areas which are going through great stress.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, not later than July 26, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Fla.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 3, 1978.

PETER F. MCNEISH,
Deputy Associate, Administrator for Investment.

[FR Doc. 78-19022 Filed 7-10-78; 8:45 am]

[4810-25]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings will be held in Washington on July 25 and 26, 1978, of the following debt management advisory committees:

American Bankers Association Government Borrowing Committee

Public Securities Association U.S. Government and Federal Agencies Securities Committee

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on July 25 and a report to the Secretary of the Treasury and Treasury staff on July 25.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions on July 25 and a report to the Secretary of the Treasury and the Treasury staff on July 26.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: July 6, 1978.

ANTHONY M. SOLOMOM,
Under Secretary for Monetary Affairs.

[FR Doc. 78-19038 Filed 7-10-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 674]

ASSIGNMENT OF HEARINGS

JULY 6, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107615 (Sub-No. 11F), UNTCO, Inc., now assigned September 14, 1978 at Philadelphia, Pa., is canceled and transferred to modified procedure.

MC 108589 (M1), Eagle Express Co., is now assigned for hearing September 6, 1978 (3 days) at Frankfort, Ky., at a location to be later designated.

MC 117589 (Sub-No. 45), Provisioners Frozen Express, Inc., is now assigned for hearing October 11, 1978 (3 days) at Denver, Colo., at a location to be later designated.

MC 114761 (Sub-No. 13), Getter Trucking Inc., is now assigned for hearing October 16, 1978 (1 week) at Denver, Colo., at a location to be later designated.

MC 117589 (Sub-No. 47), Provisioners Frozen Express, Inc., now assigned July 26 1978, at Seattle, Wash., is canceled and application dismissed.

MC 124947 (Sub-No. 79), Machinery Transports, Inc., now assigned July 17, 1978, at Phoenix, Ariz., is postponed indefinitely.

MC 140833, Glengarry Transport Ltd., now assigned July 18, 1978, at Washington, D.C., is canceled and application dismissed.

MC 94742 (Sub-No. 39F), Michaud Bus Lines, Inc. application dismissed.

MC 108375 (Sub-No. 42), LeRoy L. Wade & Son, Inc., now assigned September 11, 1978, at Omaha, Nebr., is canceled and transfered to Modified Procedure.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19089 Filed 7-10-78; 8:45 am]

[7035-01]

[Notice No. 113]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 6, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. these rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 921 (Sub-No. 32TA), filed May 9, 1978. Applicant: DEAN TRUCK LINE, INC., P.O. Drawer 631, Fulton Drive, Corinth, MS 38834. Applicant's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require special equipment), serving the Yellow Creek Nuclear Plant in Tishomingo County, MS, as an off-route point in connection with applicant's regular-route operations, for 180 days. Note: Applicant intends to tack the authority here applied for with its MC-921 and subs thereunder. Applicant further intends to interline with other carriers at Memphis and Nashville, TN; Corinth, Tupelo, Meridian and Laurel, MS; Louisville, KY; and Pensacola, FL. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tennessee Valley Authority, 633 Chestnut Street, Chattanooga, TN 37401. Send protests to: Floyd A. Johnson District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

No. MC 57239 (Sub-No. 32TA), filed May 11, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Applicant's representative: James R. Smith, 1350 South West Street, Indianapolis, IN 46206. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) serving the facilities of Penny Products, Inc., at or near Trafalagar, IN, as an off-route point in connection with carrier's regular route authority, for 180 days. Supporting shipper(s): Penny Products, Inc., Red Gold Drive, Trafalgar, IN 46181. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 82841 (Sub-No. 226TA), filed May 10, 1978. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: William E. Christensen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panelized houses*, from Omaha, NE, to points in MO and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry D. Green, Sr., President, American Marketing Corp., 14621 Industrial Road, Omaha, NE 68144. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 88380 (Sub-No. 30TA), filed May 10, 1978. Applicant: REB TRANSPORTATION, INC., Box 4309, 2400 Cold Springs Road, Fort Worth, TX 76106. Applicant's representative: Jim McHargue, 2400 Cold Springs, Fort Worth, TX 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel bar joists, rods,*

beams, and channels, from the facilities of Tex-Ark Joist Co. located near Hope, AK, to points in FL, GA, AL, MS, TN, KY, MO, IA, MN, KS, OK, TX, LA, NM, CO, UT, AZ, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tex-Ark Joist Co., P.O. Box TAJ, Hope, AK 71801. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 93952 (Sub-No. 53TA), filed May 10, 1978. Applicant: CENTRAL TRANSFER CO., 2880 North Woodford Street, P.O. Box 2203, Decatur, IL 62526. Applicant's representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *such commodities* as are dealt in by wholesale and retail food and drug business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, from Chicago, IL, to points in IN, KY, MI, MO, OH, and WI, restricted to shipments originating at named origin and destined to named destinations, for 180 days. Supporting shipper(s): (1) Raymond J. White, Traffic Manager, United States Cold Storage, 8424 West 47th Street, Lyons, IL 60534. (2) Sieg Albrecht, Distribution Commodity Warehousing Corp., 4551 South Racine Avenue, Chicago, IL 60609. (3) Robert L. Lighthall, Assistant Director, A.E., Staley Manufacturing Co., 2200 East Eldorado Street, Decatur, IL 62525. (4) Roger H. Shay, Traffic Manager, Continental Freezers, 4220 South Kildare, Chicago, IL 60632. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 106274 (Sub-No. 27TA), filed May 9, 1978. Applicant: RAEFORD TRUCKING CO., P.O. Box 219, Sanford, NC 27330. Applicant's representative: R. B. Guthrie, P.O. Box 219, Sanford, NC 27330. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and lumber products,* from points in CT, MA, NH, and VT, to points in VA, NC, and SC, for 180 days. Supporting shipper(s): (1) Lawrence R. McCoy & Co., Inc., 120 Front Street, Worcester, MA 01608. (2) Wells-Oates Lumber Co., P.O. Drawer 989, Hancock & Queen Streets, New Bern, NC 28560. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 107515 (Sub-No. 1148TA), filed May 10, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Applicant's representative: Louis C. Parker III, Serby & Mitchell, 3390 Peachtree Road, Fifth Floor, Atlanta, GA 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Carpet, carpeting and tufted textile products,* from Chattanooga, TN, to Dallas, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trend/Roxbury Carpet, Division, W.W.G. Industries, Box 162, Rome, GA 30161. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 108973 (Sub-No. 14TA), filed May 22, 1978. Applicant: INTERSTATE EXPRESS, INC., 2334 University Avenue, St. Paul, MN 55114. Applicant's representative: Joseph J. Dudley, W-1260 First National Bank Building, St. Paul, MN 55101. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from plantsite of Champion International Corp. at or near Ontonagon, MI, to Chicago, Chittenden, Des Plaines and Rockford, IL; Cedar Rapids, Keokuk and Sioux City, IA; Austin and Cloquet, MN; Battle Creek, Kalamazoo, Milan, Monroe, MI; Springfield and St. Louis, MO, and Cleveland, OH, all of the MI points involve interstate commerce, under a continuing contract, or contracts, with Champion International Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champion International Corp., Knightsbridge Drive, Hamilton, OH 45020. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 112617 (Sub-No. 393TA), filed May 11, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pellets* (in bulk, in tank vehicles), from Owensboro, KY, to Louisville, MS, for 180 days. Supporting shipper(s): Raymond L. Biscopink, Sales Accounting Manager, Hammond Plastics-Midwest, Inc., P.O. Box 990, Owensboro, KY 42301. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40205.

No. MC 113024 (Sub-No. 154TA), filed April 18, 1978. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South Dupont Highway, Smyrna, DE 19977. Applicant's representative: Samuel Earnshaw, 833 Washington Boulevard, Washington, DC 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Clothing, dry goods, drugs, medicines, toilet preparations, toilet articles, diaper liners, display stands, and materials and supplies* (except liquid commodities in tank vehicles) used in the manufacture of the above products, including packing and packaging materials therefor, between Dover, DE, and Detroit, MI; Kansas City and St. Louis, MO, and (2) *Paper and paper products,* from Kalamazoo, MI, to Dover, DE, under a continuing contract, or contracts, with International Playtex, Inc., for 90 days. Supporting shipper(s): J. M. Harrison, Director Traffic, International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Send protests to: W. L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 113106 (Sub-No. 54TA), filed April 25, 1978. Applicant: THE BLUE DIAMOND CO., 4401 East Fairmount Avenue, Baltimore, MD 21224. Applicant's representative: Chester A. Zyblut, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Salt,* in packages, from the facilities of Watkins Salt Co., Baltimore, MD, to points in OH and points in that part of PA located on and west of a line beginning at a point on the NY-PA line and extending southerly along U.S. Hwy 219 to junction Interstate 80, then easterly along Interstate 80 to junction U.S. Hwy 220, then southerly along U.S. Hwy 220 to the MD-PA line, for 180 days. Supporting shipper(s): Larry Girven, GTM, Watkins Salt Co., P.O. Box 150, Watkins Glen, NY 14891. Send protests to: William H. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 113666 (Sub-No. 131TA), filed May 10, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: D. R. Smetanick, 1200 Butler Road, Freeport, PA 16229. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic liquors,* (in bulk, in tank vehicles), between New York, NY, and Baltimore, MD, on the one hand, and, on the other, the plant facilities of Schenley Distillers, Inc., located at Schenley, PA, and Lawrenceburg, IN,

restricted to shipments having a prior or subsequent movement by water, for 180 days. Supporting shipper(s): Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, OH 45202. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 113843 (Sub-No. 257TA), filed May 9, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat and packinghouse products*, from the facilities utilized by Briggs & Co., a subsidiary of Wilson Foods Corp. at Landover, MD, to points in CT, MA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wilson Foods Corp., Oklahoma City, OK 73105. Send protests to: John B. Thomas, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 115496 (Sub-No. 90TA), filed May 10, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 53 South, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall and insulating boards, and materials and supplies* used in the installation thereof (except commodities in bulk), from the facilities of Armstrong Cork Co. at or near Macon, GA, to points in AL, AR, FL, LA, MS, NC, SC, TN, TX, VA, and WV, for 180 days. Supporting shipper(s): Armstrong Cork Co., Liberty and Charlotte Streets, Lancaster, PA 17604. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 116077 (Sub-No. 394TA), filed May 10, 1978. Applicant: DSI TRANSPORTS, INC., 2000 West Loop South, Suite 1800, Houston, TX 77027. Applicant's representative: John C. Browder, 4550 1 Post Oak Place, Suite 300, Houston, TX 77027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon dioxide gas* (in bulk, in tank vehicles), from Helena, AR, Memphis, TN, and Trinidad, TX; to Baton Rouge, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., 10001 Lake Forest Boulevard, Suite 615, New Orleans, LA 70127. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

No. MC 118959 (Sub-No. 171TA), filed May 9, 1978. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans, fibreboard, with or without metal sends, set-up*, from the facilities of Sonoco Products Co. at or near Henderson, KY, to Atlanta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., 1 North 2d Street, Hartsville, SC. Send protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 123111 (Sub-No. 11TA), filed May 10, 1978. Applicant: QUEENSWAY TANK LINES, LTD., Queensway Road, Chesterville, ON, Canada. Applicant's representative: S. Harrison Kahn, Kahn & Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten phthalic anhydride*, from Cornwall, ON, Canada, to points and places in the States of NY and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): BASF Canada, Ltd., P.O. Box 430, Station St. Laurent, Montreal, PQ, Canada. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

No. MC 126111 (Sub-No. 6TA), filed May 10, 1978. Applicant: SCHAETZEL TRUCKING CO., INC., 520 Sullivan Drive, Fond du Lac, WI 54935. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sweetened condensed milk*, from Neenah, WI, to Albany and Atlanta, GA; Centralia, IL; Elizabethtown, PA; Cleveland, TN; and Waco, TX, under a continuing contract, or contracts, with Galloway Co., for 180 days. Supporting shipper(s): Galloway Co., 601 South Commercial, Neenah, WI 54956 (Richard P. Galloway). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 127007 (Sub-No. 121TA), filed May 10, 1978. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburgh, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate, feed grade* (in bulk), from North Little Rock, AR, to points in OK, TX, KS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Borden Chemical, L80 East Broad Street, Columbus, OH 43215. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 129071 (Sub-No. 15TA), filed May 9, 1978. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, 1200 Main Street, Whitehall, WI 54773. Applicant's representative: Ronald V. Dreckman, P.O. Box 162, Whitehall, WI 54773. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat products* as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Whitehall Packing Co., Inc., at or near Whitehall, WI, to points in CO and CA, and from Meilman Food Industries, Inc., at or near Sioux Falls, SD, to points in CO, for 180 days. Supporting shipper(s): Whitehall Packing Co., Inc., P.O. Box 215, Whitehall, WI 54773. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 133099 (Sub-No. 9TA), filed May 10, 1978. Applicant: THE GLASGOW & DAVIS CO., P.O. Box 1717, Salisbury, MD 21801. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Eden, NC, to points in that part of MD, and VA south of the Chesapeake & Delaware Canal and east of the Chesapeake Bay, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Adelotte & Engler, Inc., P.O. Box 4, Greenbush, VA 23357; (2) Carey Distributors, Inc., 116 Baltimore Avenue, Salisbury, MD 21801. Send protests to: W. C. Hers-

man, District Supervisor, Interstate Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

No. MC 133119 (Sub-No. 133TA), filed April 25, 1978. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, IA 51001. Applicant's representive: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* (except commodities in bulk), from the facilities of Falls Chemicals, Inc., at or near Great Falls, MT, to (1) points in the commercial zones of Grand Forks, Minot, and Fargo, ND; Madison, WI; Denver, CO; Sioux City, IA; Omaha, NE; Caldwell, ID; Portland, OR; Spokane, Yakima, Colfax, Pullman, Walla Walla, and Pasco, WA; Pierre and Sioux Falls, SD; Kansas City, KS, and Kansas City, MO; and (2) ports of entry on the international boundary line between the United States and Canada, located at or near Raymond and Sweetgrass, MT, and Portal, ND, restricted in (2) to the transportatoin of traffic moving in foreign commerce to points in AB and SK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Blaine W. LeSuer, Operations Manager, Falls Chemicals, Inc., P.O. Box 6323, Great Falls, MT 59406. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 133655 (Sub-No. 110TA), filed May 10, 1978. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Applicant's representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, lighter fluid, and hickory chips,* from Cookeville, TN, to LA, KY, MD, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

No. MC 133689 (Sub-No. 201TA), filed May 10, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs and commodities in bulk), from Dalton, GA, to Minneapolis-St. Paul, MN, restricted to traffic originating at and destined to the facilities of Northern Cargo Association and its members, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northern Cargo Association, 501 North 2d Street, Minneapolis, MN 55401. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136818 (Sub-No. 26TA), filed May 9, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, Phoenix, AZ 85031. Applicant's representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fresh horsemeat,* in containers, from Phoenix, AZ, to Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevco International, Inc., 410 South 59th Avenue, Phoenix, AZ 85009. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19090 Filed 7-10-78; 8:45 am]

[7035-01]

[Notice No. 114]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 7, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the filed offical named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2392 (Sub-No. 113TA), filed May 1, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68114. Applicant's representative: Keith D. Wheeler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions,* in bulk, in tank vehicles, from Blair, NE, to IA, MN, ND, SD, WI, and IL, for 180 days. Supporting shipper(s): James A. Frady, Traffic Coordinator, Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, IA 51102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 76032 (Sub-No. 336TA), filed March 29, 1978 and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: Eldon E. Bresee (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Uranium concentrates,* from the facilities of United Nuclear Corp. and Anaconda Co. at or near Grants, NM, to Metropolis, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Nuclear Corp., Grants, NM 87020; (2) Anaconda Co., Grants, NM 87020. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202. The purpose of this republication is to show NM in lieu of MN.

No. MC 102616 (Sub-No. 952TA), filed April 13, 1978. Applicant:

COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, P.O. Box 5555, Akron, OH 44313. Applicant's representative: David F. McAllister (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil*, other than petroleum, in bulk, in tank vehicles, from Port Huron, MI, to East Peoria, IL, for 180 days. Supporting shipper(s): Acheson Colloids Co., Division of Acheson Industries, Inc., 1635 Washington Avenue, P.O. Box 288, Port Huron, MI 48060. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 111981 (Sub-No. 23TA), filed May 1, 1978. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadelphia, PA 19148. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration, between the facilities of Morton Frozen Food Division, ITT Continental Baking Co., Inc., in Crozet, VA, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Frozen Food Division, ITT Continental Baking Co., Inc., P.O. Box 7547, Charlottesville, VA 22906. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 118202 (Sub-No. 89TA), filed April 7, 1978, and published in the FEDERAL REGISTER issue of June 14, 1978, and republished as corrected this issue. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts and materials, equipment and supplies* used in the manufacture of new furniture, (1) from Archbold and Stryker, OH to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NV, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and Washington, DC, (2) from Jasper, IN; Clay City, IL; Middleboro and Princeton, KY; Tewksbury, MA; Monore, MI and Morristown, TN to Archbold and Stryker, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sauder Woodworking Co., Box 156, Archbold, OH 43502. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to add (15) States to part (1) of the territorial description, which were previously omitted.

No. MC 119726 (Sub-No. 127TA), filed May 3, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beattey, Suite 1000, 130 East Washington Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cartons, and materials and supplies* used in the manufacture of containers (except commodities in bulk), from Jacksonville, FL to Warner Robins, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 119726 (Sub-No. 128TA), filed May 3, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by home improvement centers, from the facilities of Color Tile Supermart, Inc., at or near Baltimore, MD, to points and places in the states of TX, WI, PA, IN, IL, NJ, NC, TN, MI, MD, NY, VA, WV, OH, and DE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Color Tile Supermart, Inc., P.O. Box 2475, Fort Worth, TX 76101. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 125470 (Sub-No. 31TA), filed May 2, 1978. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron & Metal Co., located at or near Norfolk, NE to points in CO, IL, IN, IA, KS, MI, MN, MO, MT, ND, OK, SD, TX, UT, WI, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dan D. Coulter, Traffic Manager, Norfolk Iron and Metal Co., 300 Braasch Avenue, Norfolk, NE 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 126102 (Sub-No. 21TA), filed May 1, 1978. Applicant: ANDERSON MOTOR LINES, INC., 116 Washington Street, P.O. Box 1808, Plainville, MA 02762. Applicant's representative: Robert G. Parks, 20 Walnut Street, First Floor, Wellesley Hills, MA 02181. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive fuel and lubricant additives and conditioners; fuel line antifreeze, and automotive glass cleaner and antifreeze* (except in bulk, in tank vehicles), from Worcester, MA, New Haven, CT, Cumberland, RI, and Paulsboro, NJ, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, PA, MD, VA, WV, OH, MI, and DC, under a continuing contract or contracts with Cristy Chemical Corp., for 180 days. Supporting shipper: Cristy Chemical Corp., 405 Grove Street, Worcester, MA 01605. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

No. MC 129572 (Sub-No. 5TA), filed May 3, 1978. Applicant: ANDICO, INC., a Utah corporation, 4291 West 3500 South Street, Granger, UT 84120. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe valves and fittings, tubing, beams, bar stock and sheet and plate metals* (except oil field and pipe line commodities as defined in Mercer Extension—Oil Field Commodities, 74 MCC 459) and *equipment, materials and supplies* used in the machining or installation of the above described commodities, between points in UT, ID, WY, MT, CO, AZ, NM, NV, CA, OR and WA, under a continuing contract or contracts with Pipe & Tubing, Inc., of Granger, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pipe & Tube, Inc., 4291 West 3500 South, Granger, UT 84120 (Floyd Jay

Anderson, President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 135797 (Sub-No. 117TA), filed May 10, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Applicant's representative: Paul A. Maestri, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, (except in bulk), from the facilities of Mobil Chemical Co., Plastics Division at Canandaigua, NY, to Kansas City, MO; Opelika, AL; Miami Beach, FL; Frankfort and Chicago, IL; and Atlanta, Covington and Conyers, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mobil Chemical Co., Plastics Division, Macedon, NY 14502. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 00 West Capitol, Little Rock, AR 72201.

No. MC 136605 (Sub-No. 50TA), filed May 3, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, 216 Trade Street, Missoula, MT 59807. Applicant's representative: W. E. Seliski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, log homes* (pre-cut and knocked down) *and components* from Ravalli County, MT to the States of UT, AZ, NM and TX, for 180 days. Supporting shipper(s): There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 140511 (Sub-No. 6TA), filed May 22, 1978. Applicant: AUTOLOG CORP., 11229 to 100 Pavonia Avenue, Jersey City, NJ 07002. Applicant's representative: Larsh B. Mewhinney, c/o Moore Berson Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles, with or without baggage, sporting equipment and personal effects, in truckaway service*, in secondary movements, between points in NY, NJ, MA, CT, PA, DE, MD, and the cities of Chicago, IL; Detroit, MI; Cleveland, Columbus and Cincinnati, OH; Indianapolis, IN; Darlington, SC; High Point, NC; and Fredericksburg, VA, on the one hand, and, on the other, points in FL, and the cities of Atlanta, GA, and Columbia and Darlington, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (16) statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 140967 (Sub-No. 4TA), filed May 10, 1978. Applicant: ARLEN LINDQUIST, d.b.a. ARLEN E. LINDQUIST TRUCKING, 4399 Hodgson Road, St. Paul, MN 55112. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from Des Moines, IA, to points in MN, ND, and SD, under a continuing contract, or contracts, with Chamberlain Oil Co., Inc., of Clontarf, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chamberlain Oil Co., Inc., Box 278, Clontarf, MN 56226. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 142519 (Sub-No. 4TA), filed May 10, 1978. Applicant: DELIVERY SERVICE CORP., 5000 Wyoming Avenue, Suite 218, Dearborn, MI 48126. Applicant's representative: William B. Elmer, 21635 East 9 Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Window glass, plate glass, laminated glass, automobile glass, appliance door windows, framed and unframed*, from Detroit, MI, to Seattle, WA; Spokane, WA; Portland, OR; Salt Lake City, UT; and Las Vegas, NE, and the commercial zones of each said cities; and (2) *materials and supplies* used in connection with the manufacture and distribution of the commodities in (1) above, from the destination area described in (1) above, to Detroit, MI, under a continuing contract, or contracts, with Shatterproof Glass Corp. of Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shatterproof Glass Corp., 4815 Cabot, Detroit, MI, E. E. DeFobio, Vice Chairman. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 142838 (Sub-No. 4TA), filed May 10, 1978. Applicant: COX TRANSFER, INC., P.O. Box 163, Eureka, IL 61530. Applicant's representative: Robert T. Lawly, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Streator, IL, to St. Louis, MO, restricted to traffic originating at the manufacturing and warehousing facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Streator, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thatcher Glass Manufacturer Co., Division of Dart Industries, Inc., Robert J. Walsh, Special Projects Coordinator, 1900 Grand Central Avenue, Elmira, NY 14902. Send protests to: Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 143083 (Sub-No. 5TA), filed May 9, 1978. Applicant: C.T.S. LINES, INC., 602 Airport Road, Greenville, SC 29615. Applicant's representative: Robert W. Gerson, 1400 Candler Building, Atlanta, GA 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rugs, carpet, carpeting, carpet remnants, and tufted textile products*, from Dalton and Cartersville, GA, to AZ, AR, CA, IN, MS, NV, NM, OK, TX, UT, and WA, under a continuing contract, or contracts, with Shaw Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shaw Industries, Inc., P.O. Drawer 2128, Dalton, GA 30720. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 143109 (Sub-No. 2TA), filed May 1, 1978. Applicant: ASSOCIATED DIESEL SERVICE, INC., 4999 Jackson, Denver, CO 80216. Applicant's representative: Robert Edwin Anderson, 3750 East 50th Avenue, Denver, CO 80216. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat byproducts and materials* distributed by packinghouses, from plantsites and facilities of Peppertree Beef Co. at Denver, CO, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI, under a con-

tinuing contract or contracts with Peppertree Beef Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peppertree Beef Co., 5300 Franklin Street, Denver, CO 80216. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customshouse, 721 19th Street, Denver, CO 80202.

No. MC 143446 (Sub-No. 2TA), filed May 3, 1978. Applicant: GARY L. McCALLISTER AND MONTE A. McCALLISTER d.b.a. McCALLISTER BROTHERS, P.O. Box 1911, Rock Springs, WY 82901. Applicant's representative: Ward A. White, Attorney, P.O. Box 568, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite, barite, drilling compounds, and completion materials*, in sacks and in bulk, and, (2) *machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, their products and by products, between points in Grand, Sanpete, Utah, Wasatch, Salt Lake, Davis, and Morgan Counties, UT, on the one hand, and on the other, points in (1) Sweetwater, Carbon, Uinta, Lincoln and Teton Counties, WY; (2) points in CO located west of U.S. Hwy 84 and north of Interstate Hwy 70, U.S. Hwy 6-24; and (3) points in ID, for 180 days. Restricted against transportation of complete drilling rigs. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Land & Marine Rental Co., 1912 Elk Street, Rock Springs, WY 82901. Magcobar Division of Dresser Ind., Suite 1600, Mettobank Building, 475 17th Street, Denver, CO 80202. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Roon 105, Federal Building and U.S. Courthouse, 111 South Wolcott, Casper, WY 82601.

No. MC 143619 (Sub-No. 3TA), filed May 9, 1978. Applicant: PALS FARMS, INC., R.F.D., Alexander, IA 50420. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed*, from the facilities of Fermented Products, Inc., at or near Mason City, IA, to points in AR, CO, IL, IN, KS, MI, KY, MN, MO, NE, OH, ND, OK, SD, TX, and WI, under a continuing contract, or contracts, with Wonderlife Corp. of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wonderlife Corp. of America, 5875 Fleur Drive, Des Moines, IA 50315. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 144572 (Sub-No. 1TA), filed May 1, 1978. Applicant: MONFORT TRANSPORTATION CO., P.O. Box G, Greeley, CO 80631. Applicant's representative: John T. Wirth, 1600 Broadway, 2310 Colorado State Bank Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages and related mixes* from points in CA; KY; Jacksonville, FL; Chicago, Plainfield, Peoria, and Pekin, IL; Lawrenceburg, IN; Boston, MA; Detroit and Allen Park, MI; Bayonne, NJ; New York, NY; Cincinnati, OH; Philadelphia, PA; and Lynchburg, TN, to Cheyenne, WY, for 180 days. Restricted to traffic destined to the facilities of Wyoming Liquor Commission. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wyoming Liquor Commission, Cheyenne, WY 82002. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 144713TA, filed May 3, 1978. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Applicant's representative: Glenn M. Heagerty (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as* are dealt in by a manufacturer of toilet preparations and cleaning compounds (except in bulk), from Cockeysville, MD, to Stone Mountain and Newman, GA; Chicago, IL; Indianapolis and Fort Wayne, IN, and Henderson, NC, under a continuing contract, or contracts, with Noxell Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wayne T. Beverungen, Traffic Manager, Noxell Corp., P.O. Box 1789, 11050 York Road, Baltimore, MD 21203. Send protests to: W. L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 144732TA, filed May 3, 1978. Applicant: S & S TRUCKING, INC., Alzada Star Route, Belle Fourche, SD 57717. Applicant's representative: Pete C. Shear, President, Alzada Star Route, Belle Fourche, SD 57717. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Campbell County, WY, to points in Crook County, WY, for 180 days. Transportation requires movement in interstate commerce in SD points, as no intrastate route available for movement of coal. Supporting shipper(s): (1) Aurora Metal Co., Federal Bentonite Division, 609 5th, Belle Fourche, SD 57717; (2) NL Baroid, Division NL Industries, Inc., Alzada Star Route, Belle Fourche, SD 57717; (3) IMC, Alzada Star Route, Belle Fourche, SD 57717. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Court- house, 111 South Wolcott, Casper, WY 82601.

No. MC 144735TA, filed May 2, 1978. Applicant: WALKER & SMITH RIGGING, INC., Route 4, Box 145-1, Charleston, WV 25312. Applicant's representative: James H. Kerwood, 2313 Windham Road, South Charleston, WV 25303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery*, which because of size or weight requires the use of special equipment and rigging, from the shipping facilities of: (1) Eaton Corp., Construction Equipment Division, Batavia, NY; (2) Furnival Machinery, Komatsu America Corp., Packer Division, Philadelphia, PA; (3) Komatsu America Corp., Hatfield, PA; and (4) Euclid Corp., Cleveland, OH, to points in KY on and east of I-75; points in Athens, Gallia, Lawrence, Meigs, Monroe, and Washington Counties, OH; points in VA on and west of I-77; and all points in WV, under a continuing contract or contracts with Mountaineer Euclid, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. James Poindexter, President, Mountaineer Euclid, Inc., 6404 MacCorkle Avenue SW., South Charleston, WV 25303. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

PASSENGER CARRIER

No. MC 144721TA, filed May 1, 1978. Applicant: ANNAPOLIS BUS CO., P.O. Box 3247, Annapolis, MD 21403. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* (in the same vehicle with passengers), in round-trip charter operations, beginning and ending in Anne Arundel County, MD, and extending to points in VA, DE, NJ, and DC, and points in PA on and east of U.S. Hwy 15, for 180 days. Supporting

shipper(s): There are approximately 21 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: W. L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19091 Filed 7-10-78; 8:45 am]

[7035-01]

[Corrected Second Revised Service Order No. 1309]

RAILROAD OPERATING REGULATIONS FOR FREIGHT CAR MOVEMENT

Decided July 6, 1978.

Upon consideration of the petition filed by the Southern Pacific Transportation Co. on July 5, 1978, seeking exemption from compliance with the provisions of Corrected Second Revised Service Order No. 1309.

Corrected Second Revised Service Order No. 1309 was issued by the Railroad Service Board in accordance with applicable law upon its determination that an acute shortage of freight cars exists throughout the country; that certain carriers often fail to move freight cars promptly; that such practices result in substantial loss of car utilization and contribute to the shortage of freight cars, and that the requirement that railroads dispatch freight cars within 24 hours of their availability for movement does not represent an unreasonable demand upon the carriers.

It is the opinion of the Commission that the petition states no errors of fact or law warranting the relief sought, and that the allegations of the complainant that it has been required to transport an excessive number of cars within a short time span because of extensively large return of cars to it by its Eastern connections are not supported by evidence and are not in accord with other records available to the Commission.

It is ordered, The petition of the Southern Pacific Transportation Co. for an exemption from the requirements of Corrected Second Revised Service Order No. 1309 is denied.

By the Commission, Railroad Service Board, Robert S. Turkington and Leonard J. Schloer. Member Joel E. Burns not participating.

ROBERT S. TURKINGTON,
Acting Chairman.

[FR Doc. 78-19092 Filed 7-10-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6320-01]

1

[M-146 Amdt. 2; July 5, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition to the July 7, 1978, meeting agenda.

TIME AND DATE: 10 a.m., July 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 14a. Docket 32186, B.CAL's application to amend its permit to add Bangor for flag-stop cargo carriage. Finalization of show cause order (Memo 7420-C, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: British Caledonian Airways, Ltd. has filed an application to amend its permit to add Bangor, Maine for flag-stop cargo carriage. B.CAL wishes to begin service on July 20, 1978. In order to allow sufficient time for Presidential approval and not delay inauguration of this service, it is necessary that the Board consider this item this week. Accordingly, the following Members have voted that agency business requires the addition of this item to the July 7, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1422-78 Filed 7-7-78; 3:41 pm]

[6320-01]

2

[M-148; July 5, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Option Paper on "Boiler-Plate" language in standard route cases (BPDA, OGC, ALJ, BIA).
2. Dockets 32129, 32286, 32303, and 32309; Motion of Pacific Southwest for Expedited hearing of its Nonstop California-Arizona Low-Fare Application and motions to Consolidate of Hughes Airwest, Western and Trans World (BPDA, OGC, ALJ).
3. Docket 21866-5, Domestic-Passenger Fare Invest. (Phase 5—Discount Fares); Docket 21866-7, Domestic Passenger-Fare Investigation (Phase 7—Fare Level); Docket 21866-9, Domestic Passenger-Fare Investigation (Phase 9—Fare Structure); Order to finalize the Board's tentative findings and conclusions in Order 78-4-65 (Memo 7880-B, BPDA).
4. Domestic fare increase of 2.4 percent proposed by TWA. It proposes changes in the methodology for calculating ROI, and the use of replacement cost investment (BPDA).
5. Petition of Braniff Airways, Inc., for review of staff action permitting American Airlines to implement systemwide standby fares on short notice. Braniff requests that the Board suspend American's filing or in the alternative, delay implementation until July 28, 1978 (BPDA).
6. Docket 31976, California-Florida Low-Fare Case (BPDA, ALJ).
7. Docket 30277, Chicago-Midway Low-Fare Route Proceeding, tentative Opinion and Order (Memo 7909-B, OGC).
8. Docket 28196, California-Alberta Route Proceeding, Order on reconsideration (OGC).
9. Docket 32242, Advance Booking—Public Charter Rulemaking (Instructions) (OGC).
10. Docket 30635, Arizona Service Investigation (Instructions).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1423-78 Filed 7-7-78; 3:41 pm]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., July 14, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Maya Bank, a proposed new bank to be located on the southwest corner of the intersection of Palomar Street and Industrial Boulevard, Chula Vista, Calif., for Federal deposit insurance.

Tualatin Valley Bank, a proposed new bank to be located at 626 S.E. Baseline Street, Hillsboro, Oreg., for Federal deposit insurance.

Application for consent to establish a branch-detached facility:

The Kiowa State Bank, Kiowa, Colo., for consent to establish a branch-detached facility on Highway 86, Elizabeth, Colo.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,541-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,552-L—Bank of Picayune, Picayune, Miss.

Case No. 43,564-L—Franklin National Bank, New York, N.Y.

Case No. 43,565-L—Franklin National Bank, New York, N.Y.

Case No. 43,568-L—American City Bank & Trust Co., National Association, Miwaukee, Wis.

Case No. 43,567-SR—Franklin Bank, Houston, Tex.

Case No. 43,568-NH—U.S. National Bank, San Diego, Calif.

Case No. 43,569-HR—U.S. National Bank, San Diego, Calif.

Case No. 43,570-L—The Hamilton Bank & Trust Co., Atlanta, Ga.

Case No. 43,571-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,573-L—Franklin National Bank, New York, N.Y.

Case No. 43,574-L—Franklin National Bank, New York, N.Y.

Case No. 43,575-L—Banco Credito y Ahorro Ponceno Ponce, P.R.

Case No. 43,576-L—Birmingham Bloomfield Bank, Birmingham, Mich.

Case No. 43,577-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,579-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,581-L—Banco Credito y Ahorro Ponceno Ponce, P.R.

Case No. 43,582-L—Banco Credito y Ahorro Ponceno Ponce, P.R.

Case No. 43,583-NR—U.S. National Bank, San Diego, Calif.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt

from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel action regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-446.

[S-1424-78 Filed 7-7-78; 3:52 pm]

[6714-01]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., July 14, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Bank of Paradise Valley, a proposed new bank to be located at 12055 North Tatum Boulevard, Phoenix, Ariz., for Federal deposit insurance.

Coast Community Bank, a proposed new bank to be located at One Shopping Center Lane, Harbor Shopping Center, Harbor, Oreg., for Federal deposit insurance

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of U.S. National Bank, San Diego, Calif,

Bronson, Bronson & McKinnon, San Francisco, Calif., in connnection with the liquidation of First State Bank of Northern California, San Leandro, Calif. (two memorandums).

Venable, Baetjer & Howard, Baltimore, Md., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Del.

Fulbright Jaworski, Houston, Tex., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Powell, Goldstein, Frazer & Murphy, Atlanta, Ga., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Sidley and Austin, Chicago, Ill., in connection with the liquidation of the Drovers' National Bank of Chicago, Chicago, Ill.

Lemle, Kelleher, Kohlmeyer & Matthews, New Orleans, La., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La. (two memorandums).

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Pryor, Cashman, Sherman & Flynn, New York, N.Y., in connection with the receivership of American Bank & Turst Co., New York, N.Y.

Taback & Hyams, Jericho, N.Y. in connection with the liquidation of Franklin National Bank, New York, N.Y.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

O'Neill & Borges, Hato Rey, P.R. in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, P.R.

J. Randolph Pelzer, P.A., North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C.

Hansell, Post, Brandon & Dorsey, Atlanta, Ga., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Thomas, Mann & Gossett, Chattanooga, Tenn., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Meredith, Donnell & Edmonds, Corpus Christi, Tex., in connection with the receivership of Citizens State Bank, Carrizo Springs, Tex.

Memorandum proposing the leasing of additional space at 1709 New York Avenue NW., Washington, D.C. for the expansion of the Washington headquarters office.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Chief, Division of Liquidation, detailing all disbursements in excess of $10,000 and all sales of real estate properties in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn., for the period April 16 to June 16, 1978.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1425-78 Filed 7-7-78; 3:52 pm]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 128, page 28894, Monday, July 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., July 6, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin D. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been changed from the open to the closed meeting to be held immediately following its conclusion:

Concurrent Consideration of (1) Branch office application filed by San Diego Federal Savings & Loan Association, San Diego, Calif., and (2) Limited facility application—Coast Federal Savings & Loan Association, Los Angeles, Calif.

No. 163, July 6, 1978.

[S-1414-78 Filed 7-7-78; 10:43 am]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on July 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 12, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed statement to be presented to the House Committee on Small Business regarding H.R. 12069, a bill to amend the Small Business Investment Act of 1958.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: July 7, 1978.

GRIFFITH L. GARWOOD,
Acting Secretary of the Board.

[S-1410-78 Filed 7-7-78; 10:43 am]

[6210-01]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:30 a.m., Friday, July 14, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20331.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Negotiation of contracts relating to proposed improvements to the Federal Reserve Bank of Boston building. 2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: July, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board

[S-1419-78- Filed 7-7-78; 11:46 am]

[7020-02]

8

[USITC SE-78-32A]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 29055, published July 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, July 13, 1978.

CHANGES IN THE MEETING: In deliberations held Thursday, July 6, 1978, the United States International Trade Commission, in conformity with 19 CFR 201.37, voted to defer consideration of the agenda previously scheduled for 10 a.m., Thursday, July 13, 1978, to 10 a.m., Friday, July 14, 1978.

Commissioners Parker, Alberger, Moore, Bedell, Ablondi, and Minchew determined by unanimous consent that Commission business requires the change in date and affirmed that no earlier announcement of the change in the scheduled date was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1415-78 Filed 7-7-78; 10:43 am]

[7020-02]

9

[USITC SE-78-31A]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 29055, published July 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, July 13, 1978.

CHANGES IN THE MEETING: In deliberations held Thursday, July 16, 1978, the United States International Trade Commission, in conformity with 19 CFR 201.37, voted to defer action on the following item on its agenda for the meeting of July 6, 1978, until a date to be announced later.

7. Consideration of the report of U.S. exports to the U.S.S.R. (Inv. 332-91) (if necessary).

Commissioners Parker, Alberger, Moore, Bedell, Ablondi, and Minchew determined by unanimous consent that Commission business requires the change in subject matter by deletion of the agenda item, and affirmed that no earlier announcement of the deletion to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1416-78 Filed 7-7-78; 10:43 am]

[7020-02]

10

[USITC SE-78-34]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 20, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Certain fish from Canada.
5. Clothespins from the People's Republic of China, the Polish People's Republic, and the Socialist Republic of Romania (Inv. TA-406-2, -3, and -4)—Briefing and vote on market disruption.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1417-78 Filed 7-7-78; 10:43 am]

[7600-01]

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., July 12, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: July 7, 1978.

[S-1421-78 Filed 7-7-78; 3:30 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: Friday, July 7, 1978, 9:45 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following item will be considered by the Commission at a closed meeting scheduled for Friday, July 7, 1978, at 9:45 a.m.: Consideration of a trading suspension.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Karmel determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JULY 7, 1978.

[S-1420-78 Filed 7-7-78; 3:30 pm]

Federal Register

TUESDAY, JULY 11, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

■

IMPROVING GOVERNMENT REGULATIONS

Proposals for Implementing Executive Order 12044

PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on improving Government regulations prev ously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
ACTION	May 24	22325
Administrative Committee of the Federal Register	May 22	21995
Agency for International Development	June 2	24218
Agriculture Department	May 22, June 16	21986, 26091
American Battle Monuments Commission	May 25	22602
Civil Aeronautics Board	July 6	29251
Civil Service Commission	May 23	22157
Commerce Department	May 30	23170
Committee for Purchase From the Blind and Other Severely Handicapped	June 23	27229
Community Services Administration	May 25	22595
Defense Department	May 22	21994
Energy Department	May 1, June 2	18634, 24215
Environmental Protection Agency	May 31	23679
Environmental Quality Council	May 25	22593
Equal Employment Opportunity Commission	May 25	22610
Farm Credit Administration	May 22	21984
Federal Mediation and Conciliation Service	May 22	21993
General Services Administration	May 25	22612
Health, Education, and Welfare Department	May 30	23119
Housing and Urban Development Department	May 25	22598
Interior Department	May 25	22573
Interstate Commerce Commission	June 26	27729
Justice Department	May 26	22922
Labor Department	May 26	22915
Management and Budget Office	May 22, June 2	21997, 24219
National Aeronautics and Space Administration	May 22	21981
National Capital Planning Commission	May 15	20945
National Credit Union Administration	May 31	23688
National Foundation on the Arts and the Humanities	May 25	22591
National Science Foundation	June 2	24216
Pennsylvania Avenue Development Corporation	June 2	24213
Pension Benefit Guaranty Corporation	May 25	22608
Postal Rate Commission	July 5	29045
Postal Service	May 25	22587
Railroad Retirement Board	May 25	22603
Renegotiation Board	May 30	23197
Selective Service System	April 11	15211
Small Business Administration	May 25	22605
State Department	May 25	22589
Tennessee Valley Authority	June 15	25951
Transportation Department	June 1	23925
Treasury Department	May 24	22319
Veterans Administration	May 22	21983
Water Resources Council	May 30	23199

ENVIRONMENTAL PROTECTION AGENCY

[FRL 922-6]

IMPROVING ENVIRONMENTAL REGULATIONS

ACTION: Request for public comments.

SUMMARY: The Environmental Protection Agency (EPA) seeks comments on its plan to implement Executive Order 12044, Improving Government Regulations. The plan includes procedures to improve management oversight in the development of regulations, to involve the public and other governmental organizations in evaluating regulatory proposals, to analyze the effects of new and existing regulations, and to avoid unnecessary regulatory burdens on the public. A draft of this plan appeared in the FEDERAL REGISTER on May 31, 1978 (Vol. 43, pp 23679-23687).

DATE: Send comments by September 11, 1978. Public meetings: August 15, 1978—San Francisco, Calif.; August 17, 1978—Kansas City, Mo.; August 24, 1978—Washington, D.C.

ADDRESSES: Send comments to: Lawrence E. McCray, Standards and Regulations Evaluation Division (PM-223), EPA, Washington, D.C. 20460.

PUBLIC MEETINGS: EPA will hold public meetings to discuss its plan in San Francisco, Kansas City, and Washington, D.C., as follows:

San Francisco, Calif.—August 15, 1978; 9 a.m. and 7 p.m., EPA Nevada Conference Room, 215 Fremont Street, San Francisco, Calif. 94105.

Kansas City, Mo.—August 17, 1978; 2 p.m. and 7 p.m., Breckenridge Inn, 1601 N. Universal Avenue, Kansas City, Mo. 64120.

Washington, D.C.—August 24, 1978; 2 p.m., EPA Conference Room 3906, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Contact Lawrence McCray at 202-755-2884 for further information on these meetings.

BARBARA BLUM,
Acting Administrator.

JUNE 28, 1978.

ORGANIZATION OF THIS REPORT:

PREFACE

EPA is now using an efficient system for drafting and reviewing regulations, parts of which have served as models for the President's Order. This report presents ways in which we propose to update and modify that system to comply with the Order. EPA's internal and external review procedures will ensure that new EPA regulations meet the Order's standards for quality for analysis of regulatory impacts, openness to participation by outside parties, and avoidance of undue regulatory burdens.

Part of this report describes EPA's internal procedures for writing regulations. Key features are the priority classification for all EPA regulations and the use of management controls that systematically focus attention on the most important regulations. Part B describes how EPA will involve interested citizens and outside groups (both private and public organizations and local, State and Federal agencies) in developing regulations, and announces EPA's plan to formulate a new Agency-wide policy for external participation in regulation development. Part C sets out guidelines for economic analysis of regulations in each of three priority classes. It also proposes a one-year project to screen all existing EPA regulations to identify those that require revision to reduce unnecessary burden and improve effectiveness. Part D describes how EPA will avoid unnecessary paperwork burdens on the public in the reporting and recordkeeping requirements of new and existing regulations.

The parts of this report describing EPA's mechanisms for public participation are printed in italics.

EPA has scheduled three public meetings on this report. We will assess the results of these meetings and other comments submitted in the next sixty days and prepare a final report for approval by the Office of Management and Budget. We will adopt a revised EPA Manual for our regulation development process that incorporates all changes and implements our response to the Order.

The process proposed in this report meets all requirements of the Order. Table 1 lists sections of the Order and shows where to find a description of our plan to implement it. As indicated in section 7 of the Order failure to comply with procedures established in response to the Order is not grounds for judicial review of EPA regulations. Procedures described in this report will not apply when they conflict with statutory requirements.

TABLE 1—*Relationship of this report to executive order requirements*

Executive order section	*Corresponding section(s) of this report*
§ 2 Reform of the process	
(a) Semiannual Agenda	B(2) Agency Participation Policy.
(b) Agency Head Oversight	A(2) Development Plan.
(c) Public Participation	B(2) Agency Participation Policy.
(d) Approval of Significant Regulations.	
(1) Necessity of the Regulation	A(2) Development Plan: A(3) Decision Package.
(2) Consideration of Impacts	A(3) Decision Package: c(1) Analysis of New Regulations.
(3) Evaluation of Alternatives	A(3) Decision Package: c(1) Analysis of New Regulations.
(4) Response to Public Comment	A(3) Decision Package; B(2) Agency Participation Policy.
(5) Use of Plain English	A(3) Decision Package; A(4) Internal Review; B(2) Agency Participation Policy
(6) Reporting Burden Assessment	A(3) Decision Package; D Reducing Burdens on the Public.
(7) Name of Responsible official	A(3) Decision Package; B(2) Agency Participation Policy
(8) Evaluation Plan	A(3) Decision Package; C(2) Review of Existing Regulations.
(e) Criteria for Significant Regs	A(1) Initiation of Work; Chart 1.
§ 3 Regulatory analysis	
(a) Criteria	C(1) Analysis of New Regulations; Chart 4.
(b) Procedures	C(1) Analysis of New Regulations.
§ 4 Review of existing regs	
(a) Selection Criteria	C(2) Review of Existing Regulations.
(b) List of Possible Candidates	C(2) Review of Existing Regulations.

PART A: AGENCY ADMINISTRATOR'S OVERSIGHT

This part describes how EPA will strengthen top management oversight for the development of new regulations. It emphasizes EPA's internal processes and only touches on (see italicized parts) the way the Agency will involve outside parties in its decisions. Part B is entirely devoted to external participation in EPA regulation development.

In outlining the steps for EPA's process the following definitions may be useful:

—*Lead Office:* The Assistant Administrator for the relevant program (the Office of Air and Waste Management, the Office of Enforcement, the Office of Toxic Substances, or the Office of Water and Hazardous Materials) has the lead responsibility for initiating and writing most of the new regulations.

—*Work Group:* This is a group of specialists drawn from various offices within EPA to advise and assist the lead office in preparing each important regulation and its support materials.

—*Steering Committee:* This is a continuing group representing the six Assistant Administrators and Office Directors on the Administrator's staff. It oversees the mechanics of the process and conducts the first internal review of materials prepared by the lead office.

—*Red Border Review:* This is an internal review by all Assistant Administrators and chief Staff Office Directors. The heads of EPA's ten regional offices (Regional Administrators) will also have an opportunity to submit comments. A full review takes three weeks.

—*Senior Management:* This group includes the Administrator, Deputy Administrator, Assistant Administrators, Regional Administrators, the General Counsel, and Staff Office Directors.

—*The Administrator:* As Agency head, the Administrator provides the final level of internal review.

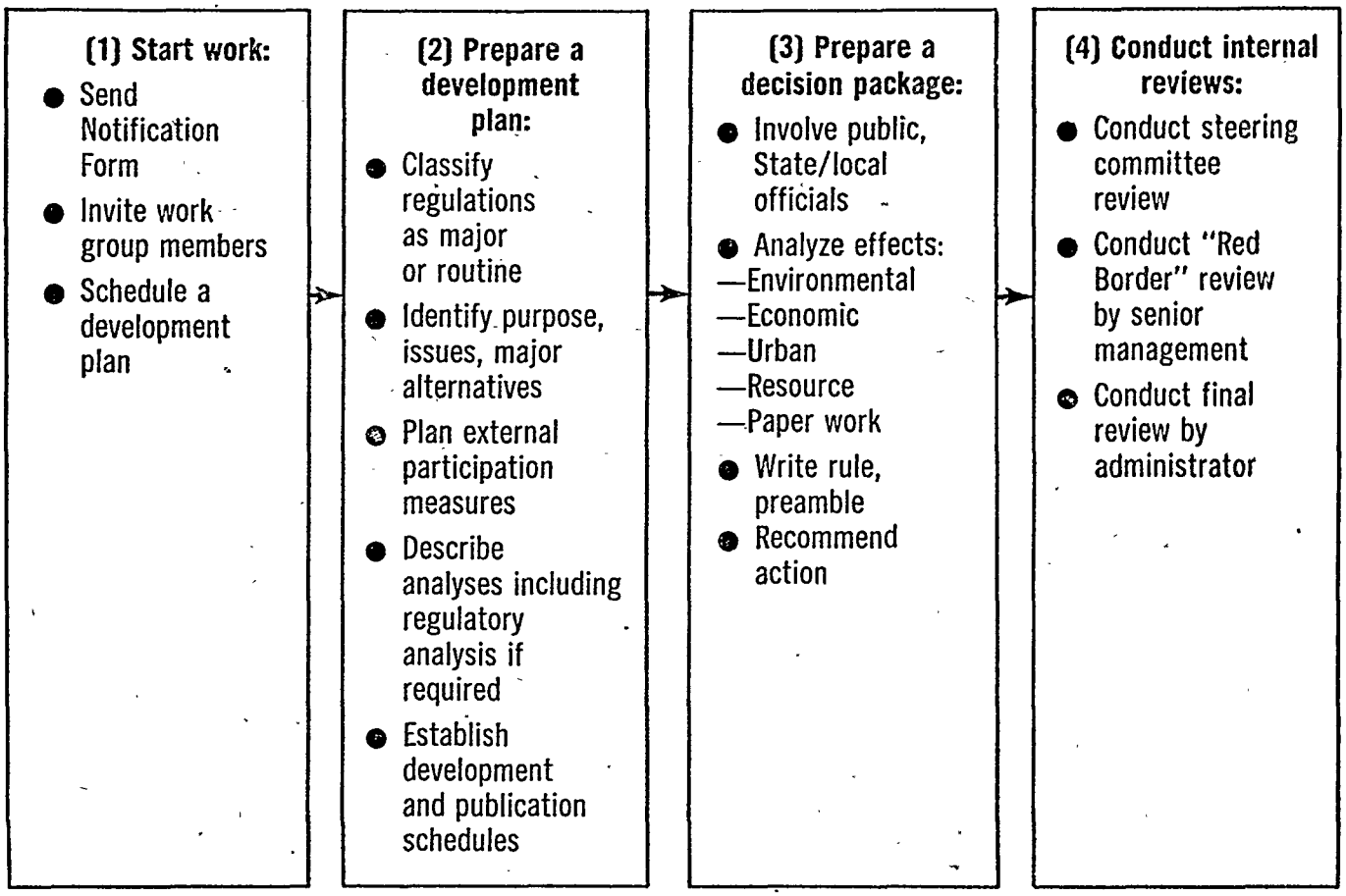
—*Interagency Regulatory Liaison Group (IRLG):* This group includes EPA, the Consumer Product Safety Commission, the Food and Drug Administration, and the Occupational Safety and Health Administration.

EPA produces regulations in a four-stage process: (1) starting work on a regulation, (2) preparation of a development plan, (3) preparation of a decision package, and (4) conducting a three-part internal review prior to publication. Each regulation (except for special cases like interim-final regulations) goes through the third and fourth stages twice, first as a proposal and again in final form. (See Figure 1.) The stages of regulation drafting are explained in detail below.

EPA plans to update this process in response to the President's Executive Order according to two general principles. First, the system will establish priorities for all EPA regulations and the Agency will use management controls that reflect those priorities. Priorities and different degrees of attention are essential at EPA because of the large volume of regulations. More than 400 regulations are already in one stage or another of the drafting process.

FIGURE 1

STAGES IN THE DEVELOPMENT OF SIGNIFICANT EPA REGULATIONS



EPA plans to use the label "Significant" (as recommended in the Executive Order) for its most important regulations. Those regulations will be subject to the formal EPA procedures outlined in this report. EPA will classify all other regulations as "Minor".

Significant regulations will be further subdivided as "Routine" and "Major". Routine regulations will include most of the Significant actions in the drafting process. Major will mean those Significant regulations (from 40 to 60 per year) receiving special attention from senior man-

agement, allowing EPA and the public to focus their attention on the most important policy areas.

The criteria we will use in classifying regulations appear in Charts 1 and 2. Figure 2 shows how the classes are related.

Some of EPA's Major regulations will require Regulatory Analyses as specified in Section 3 of the Executive Order. This requirement will be the only factor distinguishing these regulations from other Major regulations for purposes of management oversight.

The second general principle of the internal process is extensive and continuous participation by various EPA offices. Participatory decision-making will continue to be important at EPA because systematic review by other offices provides several types of valuable input. Scientists and economists will check data and analyses; lawyers will

CHART 1

CRITERIA FOR MINOR AND SIGNIFICANT REGULATIONS

EPA will classify as Minor all regulations which meet the criteria below. All others will be classified as Significant. Significant regulations will follow the uniform development process; minor regulations will not.

1. Regulations that are administrative or procedural in nature and do not alter the stringency, burden of compliance, or the environmental (health) benefits of the regulation.
2. Minor amendments to existing regulations when the amendment does not affect the stringency, burden of compliance, or the environmental (health) benefits of the regulation.
3. Approval or disapproval of revisions to State Implementation Plans under the Clean Air Act.* Although the approval of a SIP with national policy implications is not subject to full regulation development procedures, additional EPA review is required. All SIP revisions are subject to separate EPA review procedures that require public participation.
4. Water Quality Standards set by States.* These standards are subject to separate EPA review procedures that include public participation.
5. Pesticide tolerances and regulations to exempt pesticides from the provisions of the pesticide statute (FIFRA) under its section 25(b) because of a determination that: (a) the pesticide is adequately regulated by another agency, or (b) it is of a character which need not be subject to FIFRA in order to carry out the purposes of FIFRA.* [Note: Many important decisions in EPA's pesticide program do not take the form of regulations and are not therefore subject to this report. These include pesticide registrations, cancellations, suspensions, "rebuttable presumptions against registration", experimental use permits and emergency exemptions. These actions follow separate requirements for public notification and comment.]
6. Actions delegating or transfering authority from the Administrator to other levels of government, approvals of permits or plans, and actions involving an individual State (unless such actions impose through regulation economic impacts meeting the criteria listed in Chart 4).
7. Regulatory actions resulting from direct Congressional mandates that are not subject to interpretation.
8. Regulations classified as Minor by a lead office Assistant Administrator in the Notification Form. Any senior manager may request a change in the classification.

*These Minor actions do not require the notification forms described in Part A(1). EPA will publish regular listings of Minor actions taken in these three categories.

CHART 2

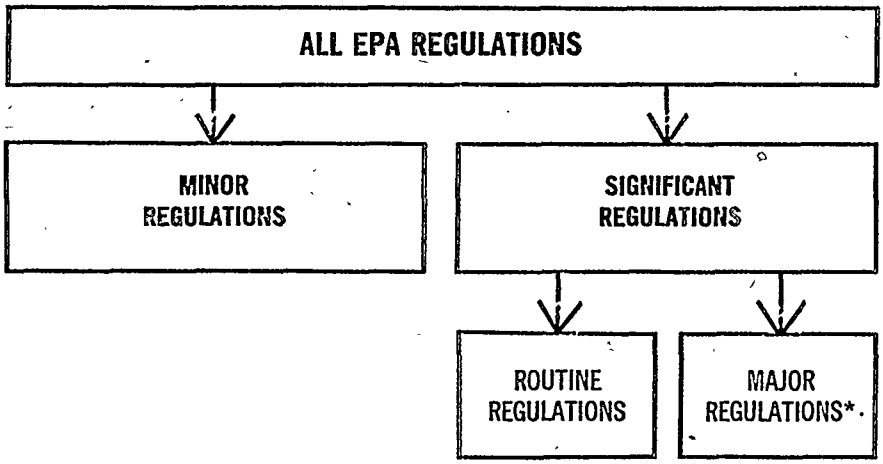
CRITERIA FOR MAJOR REGULATIONS

For internal management purposes EPA will divide all Significant regulations into two classes, Major and Routine. Both types will follow the uniform regulation development process. However, Major regulations will receive special attention from senior Agency management. We may classify a regulation as Major if it is likely to:

1. Address a major health or ecological problem.
2. Result in a major health, ecological, or economic impact.
3. Cause substantial urban impact, including constraints on transportation mobility.
4. Initiate a substantial regulatory program or change in policy.
5. Cause a substantial impact on another EPA program or another federal agency program.
6. Cause a substantial change on a national scale in the scope of State-administered environmental programs or in the relationship between EPA and States or localities.
7. Cause a disproportionate impact on a particular region of the United States.
8. Implement a regulatory program central to the basic purpose of the statute under which it is adopted.

FIGURE 2

PRIORITY CLASSIFICATIONS FOR EPA REGULATIONS



*Some major regulations will meet economic criteria requiring preparation of a regulatory analysis. (See Part C.1.)

check procedures and clarity; and managers will know how proposed regulations might affect their programs. This process starts when the lead office invites Assistant Administrators, Regional Offices, and Staff Offices to send representatives to a work group to participate in writing any Significant regulation. The lead office seeks to identify and resolve issues at each stage, in work groups, Steering Committee review, and senior management review. The lead office retains primary responsibility for new regulations, and when consensus is not reached at a particular level, the disagreement is spelled out and the matter is taken to a higher level for review. When consensus is reached on major issues at lower management levels, the lead office will identify for senior management the nature of the issue and the consensus opinion that has been reached. As a result final decisions will remain with publicly responsible appointed officials at the top of the Agency. For individual regulations the lead office may withdrawn a regulation from parts of the formal process, or use some modification of the process, as long as it justifies the need and meets other requirements of law and the Executive Order. Before making such changes, the lead office Assistant Administrator will notify the other Assistant Administrators, General Counsel, and Office Directors and consult with them if requested. The Administrator may resolve any differences of opinion.

The four stages of regulation writing and review are as follows:

Stage 1: Starting Work on a Regulation

When the Assistant Administrator for a lead office determines that he is required by law or otherwise decides to start work on a new regulation, he will send a *notification form* to senior management. This brief standard form requires no analysis.

CHART 3

WORK GROUP REPRESENTATION

EPA Regional Offices (coordinated through the Office of Regional and Intergovernmental Operations).
Office of Air and Waste Management.
Office of Enforcement.
Office of General Counsel.
Office of Legislation.
Office of Planning and Management.
Office of Research and Development.
Office of Toxic Substances.
Office of Water and Hazardous Materials.

The Office of International Activities, Office of Civil Rights, Office of Federal Activities, Office of Land Use Coordination, and Office of Public Awareness will serve on appropriate work groups.

The notification form will tell interested persons that a regulation is contemplated and allow them to plan accordingly.

The notification form classifies the new regulation as Minor or Significant (based on criteria in Chart 1). At the request of another office the Administrator may reclassify a Minor regulation as Significant. *Submitting this form will place Significant regulations on EPA's Regulatory Agenda, which is printed semi-annually in the Federal Register and distributed to the public.*

Note: Minor regulations are not subject to the requirements described below for a development plan and a decision package. Minor regulations do not pass through Steering Committee review. When published in the FEDERAL REGISTER, these regulations will carry a disclaimer that they do not meet criteria for Significant EPA regulations.

Notification forms will invite interested offices to assign appropriate personnel as work group members. (See Chart 3 for a list of EPA offices with formal responsibilities for regulation development. These offices will receive a Notification Form.)

The notification forms will set a date for submitting a development plan for Significant regulations to the Steering Committee.

Actions initiated outside EPA, which include but are not limited to revisions in State Implementation Plans, State water quality designations, some pesticide actions, delegations of authority by the Administrator to other levels of government, permit approvals, and plan approvals will not require a notification form.

STAGE 2: PREPARATION OF A DEVELOPMENT PLAN

The Assistant Administrator for the lead office (or someone, such as a Deputy Assistant Administrator, to whom such authority is delegated) appoints a chairperson for the work group assigned to work on specific Significant regulations. In the event that special expertise exists in a Regional Office, the lead office Assistant Administrator should consider asking the Regional Administrator to concur in the appointment of an expert in the Regional Office to serve as chairperson. The lead office puts together a development plan with the advice and assistance of the work group. An early step in this process is deciding whether the Significant regulation falls into the Routine or major class (see Chart 2 for criteria).

Development plans for Routine regulations must be approved by the lead office and reviewed by the Steering Committee before significant work or outside contacts can begin. These development plans are sent to senior management for their information.

Development plans for Major regulations are reviewed by the lead office and the Steering Committee but must be approved by the Assistant Administrators and Administrator before significant work or outside contacts can begin.

The format for the development plan will vary according to the type of regulation and will include a discussion of the following items when they are applicable.

- *Priority Classification:* This notes whether the Significant regulation is Routine or Major according to EPA criteria (Chart 2).
- *Purpose:* This is a brief description of the possible need to regulate and the consequences of no regulation.
- *Alternatives:* This is a summary of the major options available under the authorizing statute that will be evaluated, including a discussion of whether alternatives or supplements to direct regulation (such as economic incentives) are feasible (see the discussion of Alternatives in Part C).
- *Issues:* This is a list of issues to be resolved including effects on other EPA, Federal and State programs, and analyses of environmental, economic, energy, urban, and community impacts.
- *Schedule:* This is a timetable with target dates for: identifying and notifying interested outside parties, completion of the initial draft, internal and external review of drafts, awarding and completing contracts, any required progress reports, Steering Committee review, publication of the proposed regulations, end of the public comment period, and promulgation of the final regulation.
- *Exclusions:* This is a list of any normally required materials that the work group expects to omit from the decision package, with a brief explanation.
- *External Participation: This is plan to involve those parties outside the Agency in the regulation development process. It indicates how persons interested in and affected by the regulation will be identified, notified, and brought into discussions. It notes any interest by other Interagency Regulatory Liaison Group members or other Federal agencies and lists contact persons. It lists actions planned for coordination with State and local governments.*
- *Public Notice: This is the text of a Federal Register notice (usually an Advance Notice of Proposed Rulemaking) that asks for public comment and any information that is needed.*
- *Internal Participation:* This is a list of offices within EPA whose expertise and assistance will be needed, and a plan for coordination with EPA Regional Offices.
- *Regulatory Analysis:* This reports on the need for a Regulatory Analysis (criteria in Chart 4). This section will identify the alternatives to be evaluated in the Regulatory Analysis and the major costs and (where feasible) benefits to be analyzed. The Administrator may require a Regulatory Analysis even if the quantitative criteria are not met.
- *Resources:* This is an estimate of EPA money and personnel needed to produce the regulation, with a specific estimate of resources coming from EPA offices in addition to the lead office.
- *EIS:* This states whether Agency policy calls for an Environmental Impact Statement.

STAGE 3: PREPARATION OF A DECISION PACKAGE

After the development plan is completed, the lead office with the advice and assistance of the work group begins analyzing alternatives, writing the regulation, and collecting support materials. These make up the decision package.

Members of the work group may, in some cases, write portions of the document. They review drafts as they are prepared and keep in close touch with their offices' senior management and Steering Committee representatives.

The chairperson has overall responsibility for regulation drafting and is accountable to lead office supreriors (Division Director, Deputy Assistant Administrator, and Assistant Administrator), who provide guidance on the substance, procedures, and policy of the regulation.

The chairperson is responsible for resolving any issues or problems that may arise during the drafting process. This may be done through progress reports to senior management or by consultation with lead office superiors and other appropriate EPA managers. For Major regulations the lead office has an affirmative duty to keep EPA senior management periodically informed of issues which the work group has under consideration and to seek their policy guidance.

The Lead Office will actively seek the views of outside groups and consult with them prior to formal publication of proposed and final regulations. These groups include those persons directly affected by the regulation, environmental and consumer groups, industry representatives, other Federal agencies and State and local governments. This last group, State and local governments, will often have a major role in the process because they implement and en-

force many EPA regulations and have special knowledge of local conditions and available program resources. Whenever possible, the lead office will provide an opportunity (and adequate time) for the outside parties to review draft regulations and support documents, including the Regulatory Analysis when one is required.

The decision package will contain the following items:

- *Action Memoradum:* This is a brief summary of the regulation, including alternatives considered, environmental, economic and resource impacts, unresolved issues and recommended action. The alternatives should include the realistic options that the lead office and work group have considered seriously. Where feasible a summary of the incremental environmental and economic effects should accompany the analysis of each alternative.
- *Federal Register Documents:* This will include a preamble written in plain English that describes the facts and rationale for the decision to regulate and how the regulation fits into the larger regulatory program. The regulation itself will be written in a manner clearly understandable to those it affects, and will comply with the *Federal Register Document Drafting Handbook. The name and address of an EPA contact will be included.*
- *Analyses:* These are support documents that lay out the major issues and show how alternatives were analyzed. The analyses will identify and quantify (where possible) the regulation's environmental effects, economic (including incremental) impacts, energy impacts, technical feasibility, anticipated barriers to implementation, alternatives and supplements to direct regulation, and, for Major regulations, urban and community impacts. The analyses will show why the recommended option is the least burdensome of the acceptable alternatives and how unnecessary duplication with other EPA or Federal programs has been avoided. The Regulatory Analysis, when one is required, will summarize the results of several of these analyses. *The support documents will be available to the public.*
- EIS: An Environmental Impact Statement will be written when necessary to comply with Agency policy.
- *Resource Requirements Summary:* This is a summary of money and personnel that EPA, State, and local governments will need to implement the regulation. *(Affected officals will have an opportunity to review a draft of this assessment.)* Where possible this will include (or refer to) portions of Agency program guidance and zero-base budgeting documents that show necessary adjustments in EPA resources.
- *Reporting Impacts Statement:* This will detail the impacts of reporting and record-keeping on those subject to the regulation, including manpower projections and required expertise. New EPA reporting and record-keeping requirements will have expiration schedules. (See Part D.)
- *Public Participation Summary: This is a summary of comments, including comments from other Federal agencies and State and local governments received during the process and the Agency's response to each major issue the comments addressed.*
- *Evaluation Plan:* This is a plan and schedule for subsequent evaluation of the effects of the regulation. (See Section C.2.)

STAGE 4: CONDUCTING INTERNAL REVIEWS

After the lead office Assistant Administrator approves the decision package, he or she will submit it for prepublication review. This process has three parts: Steering Committee review, Red Border review and final review by the Administrator.

The Steering Committee will review all Significant regulations to help resolve any issues on which the work group does not reach consensus and to make sure the decision package meets standards of completeness, quality, and comprehensibility. When the Steering Committee resolves a major issue it will identify for senior management the nature of the issue and the resolutions reached. The Steering Committee will make sure all components of the decision package are prepared and that material to be published is clear and understandable. It is the Steering Committee's responsiblity to see that the regulation meets the eight specific requirements set forth in Section 2(d) of the Executive Order.

For Routine regulations, EPA's senior management will rely on the Steering Committee to see that decision packages are in order. They will be notified when the Steering Committee reviews Routine regulations. Unless a senior manager requests a full Red Border review period, any Routine decision package that has received consensus approval from the Steering Committee will be scheduled for a ten calendar day Red Border review. At the end of the tenth day it will go to the Administrator for signature. If the Steering Committee does not reach a consensus the package will enter full Red Border review. In all cases a copy of the decision package (and the Steering Committee's summary review) will be sent to senior managers for their information.

The EPA senior management will review during the Red Border process all Major regulations regardless of concurrence at lower levels. For Major regulations, the Steering Committee will check the completeness of decision packages and make sure any unresolved issues are clearly and fairly presented to senior management.

Red Border review of Major regulations should not exceed three weeks. The lead office Assistant Administrator may request a shorter review period. The lead office will report to the senior management on how formal objections or comments by individual Assistant Administrators have been resolved.

When all top-level reviews are complete or the review time has lapsed, the regulation goes to the Administrator. When he has signed it, it will be published in the FEDERAL REGISTER.

Part B. External Participation

1. Overview

Traditionally, EPA has placed a high priority on public participation in its decision-making processes. EPA managers realize that when knowledgeable and interested outside parties participate in Agency work, the result is more effective regulation.

EPA's current regulatory practices seek to give the public "an early and meaningful opportunity to participate" as called for in the President's Executive Order. EPA practice already includes the specific suggestions in the Order. These include: regular "Federal Register" publication of Regulatory Agendas, routine use of Advance Notices of Proposed Rulemaking, public participation plans for each regulation, 60-day public comment periods, frequent public meetings and hearings, and internal safeguards that public responses have been carefully considered in the development of each regulation.

EPA intends to write a comprehensive policy for public participation in regulation development. We have three primary goals. First, EPA will identify and notify the range of people and organizations who can contribute to regulations, including: private citizens; consumer, environmental and minority associations; trade, industrial and labor organizations; public health, scientific and technical societies; and local, State and Federal officials. Second, EPA will encourage their involvement by removing, where possi-

ble, the obstacles to participation, such as lack of resources or time and unfamiliarity with technical issues or EPA statutes. Finally, EPA will show how all the major points raised by the public have been carefully considered in making policy decisions.

EPA has four major projects already underway; a high level task force; a reorientation of our public affairs office; an extensive revision to the regulations covering our public participation programs in the water office; and a pilot project under the new toxic substances law. The results from each of these will be used in developing the Agencywide policy on public participation.

(a) Administrator's Special Assistant and Task Force: EPA Administrator Costle has appointed a new Special Assistant to the Administrator for Public Participation who chairs an Internal Task Force. This group will work with public representatives to evaluate current public participation programs, develop new ways for the public (including grass-roots organizations) to take part in decisions, and investigate the use of staff training systems.

(b) Office of Public Awareness: This office, formerly the Office of Public Affairs, has been reoriented toward public participation. It is preparing Public Awareness Plans to cover the next two years. These plans call for producing information materials on all the laws EPA now administers, as well as new ways to help the public take part in hearings and meetings around the country.

(c) Water and Solid Waste Program Review: Since late 1977, a work group led by the Office of Water and Hazardous Materials has been reviewing public participation requirements in the water quality, drinking water, and solid waste programs. The work group developed preliminary proposals for overall public participation requirements in water and solid waste programs and specific requirements for the construction grants program. These preliminary proposals were widely circulated for public comment and were the subject of two public meetings in Washington, D.C. We plan to publish the proposed regulations in the "Federal Register" in June or July.

(d) Pilot Project in Reimbursing Participants: This project to help reimburse the expenses for certain participants in the toxic substances rulemaking process was announced late last year. EPA has issued regulations on phasing out polychlorinated biphenyls (PCB's) under the Toxic Substances Control Act, and people may apply for reimbursement of their reasonable expenses for taking part in the hearings. EPA will reimburse people who can "substantially contribute to a fair determination of the issues," whose economic stake in the issue is small, and who do not have sufficient resources to participate. The Agency will use the results of this pilot test to guide the expansion of the concept to other programs.

2. Agency Participation Policy

In accordance with the Executive Order, EPA plans to set up a standard policy for public participation in the regulation writing process. There will be variations as required by individual programs and statutes, but the basic ground rules will be the same for all Agency programs. We plan to work with interested groups and members of the public in formulating this policy.

Although it is too early to anticipate the details of the policy, the following elements are expected to be part of it.

The Administrator will continue to approve Regulatory Agendas and see that they are published twice a year (the most recent appeared on April 6 in the "Federal Register"). Each Regulatory Agenda will list the title and status of all Significant regulations, cite the appropriate statutory authority, say whether a Regulatory Analysis is required; and give the name and telephone number of a person to contact at EPA. The Agenda will show the status of regulations removed from the list since the last Agenda publication. It will indicate existing regulations picked for review (see Section C.2) and reporting requirements that will reach their sunset date (see Section D). EPA will continue to supplement "Federal Register" publication of this Agenda with direct distribution to interested parties.

For specific regulations, EPA work groups will:

(1) Draw up a plan for external participation as part of the development plan that shows how interested parties will be identified and notified.

(2) Consult with State and local governments, individually and through major national organizations of State and local officials and associations of environmental policy officials. Summaries of this consultation will accompany publication of regulations having major intergovernmental importance.

(3) Prepare the text of a "Federal Register" notice (usually an Advance Notice of Proposed Rulemaking) to inform the public at the development plan stage that work is under way.

(4) Schedule open conferences, hearings, meetings, and direct mailings, and keep a mailing list of those interested in receiving draft regulations and other materials.

(5) Make available a draft of the Regulatory Analysis (when one is required) by the time we publish a Notice of Proposed Rulemaking. The "Federal Register" preamble will have a summary of the Regulatory Analysis and information on how the public can obtain it. (Note: EPA will make public a final Regulatory Analysis when it publishes the final rule.)

(6) Provide at least 60 days for public comment, measured from the date the proposal is published, and refrain from requiring commenters to supply multiple copies of their comments. In any instance in which a 60-day comment period is not possible the proposal will contain a brief statement of the reasons for the shorter time period.

(7) Summarize outside comments, indicate EPA's response to major points and distribute both to interested individuals and groups. (We currently summarize comments and our responses in preambles to our regulations.)

(8) Write the regulation and explanatory materials clearly: To help lead offices write regulations that people can understand, EPA will develop a style book for regulation writers, select one or more regulations and develop them as models of good writing, and hire an editor to assist in the review of regulations before they are published.

(9) Track any Agency overlap or joint interest with other members of the Interagency Regulatory Liaison Group. The preamble for regulations of interest to other IRLG members will describe coordination efforts and how they have affected the substance and procedure of the regulation.

(10) Communicate with other Federal agencies affected by a planned regulatory action. EPA's lead office is encouraged to contact another Federal agency when the other agency (a) has a statutory mandate in the area to be regulated, (b) has a program established or authorized in the area to be regulated, (c) will require additional resources because of the EPA action, or (d) has important expertise revelvant to the matter to be regulated. (Note: Where possible, these interagency issues will be resolved at the staff level.)

PART C. ANALYSIS

The Executive Order calls for careful analysis of available regulatory alternatives. In this Part we propose criteria and procedures for EPA analysis of (1) the economic effects of new Significant regulations and (2) regulations the Agency has already issued.

(1) ECONOMIC ANALYSIS FOR NEW SIGNIFICANT REGULATIONS

Other parts of this report (see Part A) describe the range of analyses that EPA will provide for all Significant regulations; EPA will assess the health, ecological, economic,

urban, energy, and program resource impacts. This subpart provides further detail on EPA's economic analysis requirements. In each economic analysis the lead office will indicate by reference the parts of the decision package that analyze the benefits the regulation will generate. This will provide to the extent possible a full identification of the regulation's costs and benefits.

The extent of analysis of the economic impact of new Significant regulations will depend on whether the regulation is Routine, Major, or subject to the "Regulatory Analysis" requirements of the Executive Order. Guidelines based on our current internal requirements are presented for each of these categories. The guidelines in subpart (a) apply to those Major regulations that meet the criteria (Chart 4) that trigger a Regulatory Analysis. Not all regulations requiring a Regulatory Analysis will lend themselves to the analytic approach in the guidelines. In these cases, the lead office with the advice and assistance of the work group may amend the approach to suit the circumstances. For other Major regulations a less intensive analysis is sufficient, as described in subpart (b). For Routine regulations the basic guidelines in subpart (c) apply.

CHART 4

CRITERIA FOR CONDUCTING REGULATORY ANALYSES

The lead office will prepare a regulatory Analysis of potential economic impacts for any regulation that triggers one of the following criteria:

1. Additional annualized costs of compliance, including capital charges (interest and depreciation), will total $100 million (i) within any one of the first five years of implementation, or (ii), if applicable, within any calendar year up to the date by which the law requires attainment of the relevant pollution standard.
2. Total additional cost of production of any major industry product or service will exceed 5 percent of the selling price of the product.
3. Net national energy consumption will increase by the equivalent of 25,000 barrels of oil per day (equal to 50 quadrillion Btu per year, or 5 billion kilowatt hours per year).
4. Additional annual demand will increase or annual supply will decrease by more than 3 percent for any of the following materials by the attainment date, if applicable, or within five years of implementation: plate steel, tubular steel, stainless steel, scrap steel, aluminum, copper, manganese, magnesium, zinc, ethylene, ethylene glycol, liquefied petroleum gasses, ammonia, urea, plastics, synthetic rubber, or pulp.

(a) *Guidelines for Regulatory Analysis*

The lead office will base its Regulatory Analysis on the general approach described below. EPA now uses this approach to determine the costs of such regulations as effluent guidelines and new source performance standards. Some types of regulations may require a modified approach. Sewage treatment plant regulations and some solid waste regulations that affect primarily other government agencies are examples that do not require industry segmentation as part of the analysis. In these and other appropriate cases, the lead office may amend the approach as needed.

General Approach

1. *Prepare an economic profile* of the affected sectors (producers and/or consumers), including the industry structure (e.g., degree of concentration; they way prices are determined), the type of competition in the affected sectors, and performance trends (e.g., financial rates, growth trends) of the affected sectors.

2. *Segment the industry* (or other affected groups) into categories of economic units that will be similarly-impacted (e.g., according to size distribution, pollution control process, age).

3. *Develop marginal (increment) cost effectiveness curves* for each process/strategy for each affected industry segment.

4. *Analyze the economic impact* of proposed standards and of alternatives including any economic benefits from regulation such as the generation of new product markets and new employment opportunities. It may not be necessary to analyze all alternatives in the same level of detail. The following impacts will be analyzed when feasible:

(a) price effects
(b) production effects
(c) industry growth, profitability, capital availability effects
(d) employment effects
(e) community effects
(f) balance of trade effects
(g) energy effects

For grant programs, some impact categories are not applicable, although user charges (as an analogue to price), effects on communities (affordability, employment, growth), and energy effects may be applicable.

EPA has developed more detailed internal working guidance to assist program offices in conducting their economic analyses. It is available upon request from Frans J. Kok, Director, Economic Analysis Division, EPA, Washington, D.C. 20460.

Alternatives

Although the decision package for a regulation will address alternatives available under the authorizing statute, the lead office may during its analysis identify attractive regulatory alternatives that cannot be implemented under existing law. EPA will review such alternatives and where appropriate develop the alternative in another forum.

The analysis should cover the important alternatives that EPA has considered. Such alternatives may include:

1. Alternative types of regulations

- no additional regulatory action (e.g., reliance on market forces).
- an informational requirement where applicable (e.g., product labeling).
- approaches that specify performance levels (e.g., an allowable level of emissions) but allow those regulated to achieve attainment by whatever means they prefer.
- engineering design approaches that specify how a proposed outcome is to be achieved.

2. Alternative stringency levels

- making the standard or regulation either more or less stringent.
- specifically tailoring the degree of stringency to stages of processing, particular industries or other pertinent groups.

3. Alternative timing

- using different effective dates.
- phasing in the requirement more or less gradually.

4. Alternative methods of ensuring compliance

- use of economic incentives.
- various enforcement options (e.g., on-site inspections vs. periodic reporting, sharing implementation responsibilities variously with the different levels of government).
- use of different compliance methods for different industry segments or types of economic activity where costs of compliance vary sharply (e.g., treating small firms and large firms differently).

(b) *Other Major Regulations*

For Major regulations that do not require a Regulatory Analysis, the lead office will conduct an analysis for EPA purposes. This will follow the same general approach as outlined above, although it will not have the same level of detail as a formal Regulatory Analysis.

(c) *Routine Regulations*

EPA will continue to analyze all Routine regulations for insights into the potential effects on the economy and on those who are subject to the regulation.

To minimize the burden on lead offices, this analysis will be less sophisticated. It will include the following estimates:

- the number of establishments that will be affected
- an estimate of the total costs that will be borne by each affected industry segment
- an estimate of the price increases under an assumption that cost changes will be reflected in prices
- an estimate of lost revenues for each segment if costs are not fully reflected in price changes
- an estimate of job losses
- an estimate of total energy losses for each affected industry segment

This analysis will cover both the proposed regulation and, if applicable, the alternatives considered; however some alternatives may be analyzed in less detail.

(2) *Review of Existing Regulations*

Section 4 of the Executive Order calls for the review of existing regulations. To comply with Section 4, EPA must establish a set of criteria that will be used to select regulations for review and identify a list of possible regulations for review. Section 2 of the Executive Order requires that each new Significant regulation include a plan for its future evaluation.

(a) *Selection Criteria and Process*

Many of EPA's most important regulations are already scheduled for review in response to statutory or judicial direction:

Air Program

- Ambient Air Quality Standards (40 CFR Part 50)
- New Source Performance Standards (40 CFR Part 60)
- Approval of State Implementation Plans (40 CFR Parts 51.7, 51.17)

Water Program

- Best Available Technology for Primary Industries
- Water Quality Management and Standards regulations
- NPDES Permit Regulations
- Construction Grants Regulations

These reviews will be the first scheduled. To make the review of existing regulations a comprehensive program, EPA proposes to screen all of its existing regulations for the purpose of selecting regulations for more detailed review. The screening will occur during the first year following the adoption of this report. The EPA program office responsible for each subchapter of Title 40 of the *Code of Federal Regulations* (which contains almost all of EPA's regulations) will form a work group to conduct the screening.

The lead office, with the advice and assistance of the work group, will rely on currently available data in its initial screening. The selection criteria are:

- Estimated high actual costs to the public of implementation and maintenance of the regulation;
- Estimated low actual benefits;
- Existence of overlap with other regulations (issued by EPA or another agency);
- Need for integration with other programs;
- Existence of preferable alternatives;
- Low degree of compliance;
- Low enforceability;
- High reporting burden;
- Lack of clear language;
- Length of time since the regulation became effective or was last substantively amended;*
- Intensity of public sentiment in favor of changing the regulation;
- Availability of adequate data for analysis of the effectiveness and cost of the regulation.

The lead office will summarize its assessment of each regulation and designate appropriate regulations for formal review. It will prepare a plan to review all regulations selected within five years.

The review plan will include an estimate of the necessary dollar resources and identify data needed for the reviews. Where there are insufficient data for review, the plan will include provisions for obtaining it. The lead office should make any request for additional or reprogrammed resources to carry out its review plan through the zero-base budget process.

The lead office will submit designated regulations and review plans to the Steering Committee for review and to senior management for approval.

(b) *Nature of the Review*

Once it has selected a regulation for review, the lead office will conduct the review at the time scheduled in the five year plan with the advice and assistance of a work group.

The review of existing regulations will follow the procedures for the development of new regulations. The review will not unnecessarily duplicate any analyses made when the regulation was first issued if the analyses are still valid and meet current quality standards.

(c) *Development of Evaluation Plans*

Section 2(d)(8) of the Executive Order requires that each new Significant regulation have a plan for evaluation of its effectiveness. In compliance with this requirement, the lead office for each Significant regulation will develop an evaluation plan. Evaluation plans will indicate the resource needs, data requirements, and a schedule for conducting the subsequent evaluation. Evaluation plans are intended to improve the relevance and adequacy of data collected over time to support the analysis of regulatory effectiveness.

* For example, EPA is now writing regulations which may be adopted within the next year, including regulations to implement a hazardous waste control program, identify criteria for acceptable landfills, and set various new air quality and drinking water standards. Such new regulations will not be subject to the screening or review requirements listed in this Part. They are subject to subpart (c) of this part which asks that each new significant regulation contain an "evaluation plan".

D. Reporting Burdens Reductions

To carry out its statutory mandates, EPA must obtain a significant amount of data from the public, industry, and State and local governments. We often request data on environmental (health) effects, economic parameters, pollutant discharge and emission rates, and much more. EPA's permit and grant programs also require submission of applications that often contain detailed requests for information.

While this information remains essential, EPA is designing mechanisms to minimize paperwork and reporting burdens wherever possible. These devices will comply with Section 3(d) of the Executive Order, which requires an analysis of new reporting or recordkeeping burdens before Significant new regulations are adopted; and with Section 4 which requires a review of burdens imposed by existing regulations.

First, EPA will establish a "sunset" policy on reporting requirements contained in new regulations. This will terminate automatically those reports that cannot be justified after a set period, usually five years. If a lead office requests renewal of a reporting requirement, EPA will conduct an internal review of its costs and its benefits. The reporting requirement will not expire during the time it is under review. *The review process will include an early opportunity for public comment.* Only after this review, and upon order of the Administrator, will a reporting requirement continue beyond its sunset date. (See the Appendix for details of this policy.)

Second, EPA will require a "reports impact analysis" for all new Significant regulations. This analysis will be part of the decision package as it moves through the stages of regulation development described in Part A. The analysis will describe the reason for the reports, evaluate major alternatives (including the use of existing sources of information), outline the information requested and the form of the report, and estimate the costs for the Agency and for those reporting to collect, prepare and use the data. *EPA will consider public comments on the analysis prior to proposing the regulation.*

Third, EPA will continue to include a request for public comment on reporting burdens in the "Federal Register" preambles or proposed new regulations. In the past, EPA has sent these comments to the Office of Management and Budget when seeking OMB clearance for the report. *The lead office and work group will consider these comments in drafting the final regulation.*

Fourth, as part of its review of existing regulations (according to Part C.2 of this report) EPA will review the reporting and recordkeeping requirements. *These reviews will follow the public participation measures used for new regulations.*

Appendix

Proposed Sunset Policy for New Reporting Requirements

I. COVERAGE

New regulations that impose a reporting requirement will contain a provision for repeal of that requirement on a specific date unless action is taken by EPA to renew or modify it.

We will establish a review process to place a continuing burden of proving the report's desirability on those advocating its retention. *The process will include participation by affected parties and the general public.*

Each lead office proposing a new regulation that will impose a reporting requirement must include a sunset provision. The lead office will have three options:

(1) To set as a termination date the semiannual sunset date (April 1 or October 1) that falls within 5 years after reporting begins (e.g., a reporting requirement taking effect on January 1, 1979 would expire not later than October 1, 1983).

(2) To set an earlier or later sunset date, depending on such factors as the life-span of the program for which the information is being sought; the time needed to evaluate the usefulness of the report; and the burden that frequent changes in the reporting requirement might impose.

(3) To exempt the reporting requirement from the sunset process if the resources that would be needed for a sunset review are greater than the burdens imposed by the report itself, or if the report is required by statute.

II. REVIEW

The review process will begin six months before the scheduled sunset date. *At that time, EPA will publish in its Regulatory Agenda a list of reporting requirements due to expire on the next semiannual sunset date. This notice will invite public comment on the need to review, modify or terminate any of the requirements scheduled to expire.* The EPA lead office administering the requirement and any outside party affected by the program may request renewal for an appropriate period.

After 60 days, another public notice will list those reporting requirements for which renewal has been requested. It will invite further public comment to be included in a public docket for each requirement.

The lead office that administers the requirement will evaluate it, inviting other interested EPA offices to participate on a work group. The evaluation will resemble the report's impact analysis for new regulations, but will reflect the actual costs, burdens, and usefulness of the reporting requirement. The program office and work group must either provide a justification for renewing the requirement or recommend that it be modified or terminated. EPA's Program Reporting Division will review the assessment and make a recommendation.

The Steering Committee will review the assessment along with public comment and Agency responses to those comments and recommend to the Administrator that he renew, modify, or terminate the reporting requirement. Upon his approval the Administrator will sign an order implementing the decision.

On the sunset date a "Federal Register" notice will list those regulations repealed and those renewed. Reporting requirements will not lapse while they are under review. In the case of a regulation for which modification is proposed EPA will retain it until the Agency completes procedures to implement the modified regulations.

[FR Doc. 78-18702 Filed 7-3-78; 9:51 am]

Federal Register

TUESDAY, JULY 11, 1978
PART III

DEPARTMENT OF STATE

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FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

[4710-09]

DEPARTMENT OF STATE

[Public Notice 616]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "act") provides that no fishing shall be conducted by foreign fishing vessels in the fishery conservation zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the act.

The act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the Government of Japan, Mexico, and the Union of Soviet Socialist Republics, and are published herewith.

Dated: June 30, 1978.

JAMES A. STORER,
Director,
Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0035

1. Name of Vessel NUSKA 2. Visual Identifier (Call Sign) X.C.N.K.
3. Type of Vessel STERN TRAWL 4. Length 44 M
5. Gross Tonnage 512 T.M. 6. Net Tonnage 440 T.M. 7. Speed (knots) MAXIMUM 15
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804 -7mo. PISO MEXICO, 10, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
GOA	SQUID	BOTTOM TRAWL	X	X	
	SQUID	MID WATER TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0037

1. Name of Vessel SANTA MAR 2. Visual Identifier (Call Sign) X.C.S.M.
3. Type of Vessel PAIR TRAWLER 4. Length 45 M
5. Gross Tonnage 419 T.M. 6. Net Tonnage 201 T.M. 7. Speed (knots) MAXIMUM 10.9
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804-7mo. PISO , MEXICO 10.D.F.
9. Types of Processing Equipment RADER SYSTEM, WASHER MACHINE

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
GOA	PACIFIC COD	BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0038

1. Name of Vessel CLARA MAR 2. Visual Identifier (Call Sign) X.C.C.Z.
3. Type of Vessel PAIR TRAWLER 4. Length 45 M
5. Gross Tonnage 419 T.M. 6. Net Tonnage 201 T.M. 7. Speed (knots) MAXIMUM 10.9
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804-7mo. PISO , MEXICO 10, D.F.
9. Types of Processing Equipment RADER SYSTEM, WASHER MACHINE

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
GOA	PACIFIC COD	BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0039

1. Name of Vessel ALCIONES 2. Visual Identifier (Call Sign) X.C.A.E.
3. Type of Vessel PAIR TRAWLER 4. Length 33 MT
5. Gross Tonnage 270 T.M. 6. Net Tonnage 109 T.M. 7. Speed (knots) MAXIMUM 9.5
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804- 7mo. PISO , MEXICO 10 D.F.
9. Types of Processing Equipment RADER SYSTEM, WASHER MACHINE

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
GOA	PACIFIC COD	BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0040

1. Name of Vessel ALBERO 2. Visual Identifier (Call Sign) X.C.A.D.
3. Type of Vessel PAIR TRAWLER 4. Length 39 MT
5. Gross Tonnage 278 T.M. 6. Net Tonnage 100 T.M. 7. Maximum Speed (knots) 9.5
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804-7mo. piso MEXICO 10, D.F.
9. Types of Processing Equipment BADER SYSTEM, WASHER MACHINE
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
GOA	PACIFIC COD	BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0041

1. Name of Vessel MAR DEL LABRADOR 2. Visual Identifier (Call Sign) X.C.L.R.
3. Type of Vessel Stern Trawler 4. Length 65.86 Mt
5. Gross Tonnage 981 T.M. 6. Net Tonnage 444 T.M. 7. Maximum Speed (knots) 11
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA, S.A.
C.V., HOMERO #1804 7mo. Piso, MEXICO 10, D.F.
9. Types of Processing Equipment FREEZER, BADER
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
WOC	PACIFIC HAKE	PELAGIC TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0042

1. Name of Vessel PLAYA DE MORISCA 2. Visual Identifier (Call Sign) X.C.M.U.
3. Type of Vessel STERN TRAWLER 4. Length 74 MTS
5. Gross Tonnage 1,493 T.M. 6. Net Tonnage 722 T.M. 7. Maximum Speed (knots) 13
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA, S.A.
C.V. HOMERO #1804 7Mo. piso, Mexico 10, D.F.
9. Types of Processing Equipment FREEZER, BADER
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
WOC	PACIFIC HAKE	PELAGIC TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0043

1. Name of Vessel BARRERA- MASSO II 2. Visual Identifier (Call Sign) X.C.B.M.
3. Type of Vessel STERN TRAWLER 4. Length 74 MTS.
5. Gross Tonnage 1,285 T.M. 6. Net Tonnage 599 T.M. 7. Maximum Speed (knots) 13
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA, S.A.
C.V. HOMERO #1804 7Mo. Piso Mexico, 10 D.F.
9. Types of Processing Equipment FREEZER, BADER
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
WOC	PACIFIC HAKE	PELAGIC TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0044

1. Name of Vessel TOULA 2. Visual Identifier (Call Sign) X.C.T.F.
3. Type of Vessel STERN TRAWLER 4. Length 67 Mts.
5. Gross Tonnage 1,647 T.M. 6. Net Tonnage 514 T.M. 7. Speed (knots) Maximum 11.2
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO #1804 7Mo. piso MEXICO 10 D.F.
9. Types of Processing Equipment FREZER, BADER

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity/ Catching	Processing	Other Support
WOC	PACIFIC HAKE	PELAGIC TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0045

1. Name of Vessel MAR DEL CARO 2. Visual Identifier (Call Sign) X.C.M.G.
3. Type of Vessel STERN TRAWLER 4. Length 75.21 Mts
5. Gross Tonnage 1,414 T.M. 6. Net Tonnage 624 T.M. 7. Speed (knots) Maximum 12.7
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A
C.V. HOMERO #1804 7mo. Piso MEXICO 10 D.F.
9. Types of Processing Equipment FREEZER, BADER

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity/ Catching	Processing	Other Support
WOC	PACIFIC HAKE	PELAGIC TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0046

1. Name of Vessel VIEIRASA IV 2. Visual Identifier (Call Sign) X.C.V.I.
3. Type of Vessel STERN TRAWLER 4. Length 44.24 Mt
5. Gross Tonnage 287 T.M. 6. Net Tonnage 133 T.M. 7. Speed (knots) Maximum 9.6
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A.
C.V. HOMERO # 1804 7mo. PISO . MEXICO 10 D.F.
9. Types of Processing Equipment FREEZER, BADER

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity/ Catching	Processing	Other Support
WOC	PACIFIC HAKE	PELAGIC, TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

Corrected
FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. UR-78-0617

1. Name of Vessel 18 SIEZD VLKSM 2. Visual Identifier (Call Sign) ENZP
3. Type of Vessel STERN TRAWLER 4. Length 84
5. Gross Tonnage 2327 6. Net Tonnage 842 7. Speed (knots) Maximum 12.2
8. Owner's Name and Address NAKHODKINOSAJA BAZA AKTIVNOGO MORSKOGO
RYBOLOVSTVA, NAKHODKA, USSR
9. Types of Processing Equipment FREEZER, FISH MEAL PLANT, FILLETER

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity/ Catching	Processing	Other Support
WOC	Hake			X	X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☐ No ☒ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

Together with MYS CHINA and YEMEN to conduct the support operation to U.S. catchers working for MARINE RESOURCES CO., INC.

Remarks: only two of three vessels (MYS CHINA, YEMEN and 18 SIEZD VLKSM) will be in operation at any one time with American fishermen.

Support of approximately 2-4 U.S. flag vessels fishing for MARINE RESOURCES CO., INC.

FISHERY - W.O.C.

SPECIES - Hake and other finfish as a by-catch

QUANTITIES - approximately 7,500 mt together with F/V NYS GRIHA and F/V/ TERNEJ to be processed for MARINE RESOURCES CO., INC. from catches they will purchase from U.S. vessels.

DATES - July-December 1978

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. JA-78-1142

1. Name of Vessel JIN PO MARU NO.65 2. Visual Identifier (Call Sign) TKUX
3. Type of Vessel CARGO/TRANSPORT 4. Length 45M
5. Gross Tonnage 404 6. Net Tonnage 229 7. Maximum Speed (knots) 10
8. Owner's Name and Address SANAMISHOKAI LTD.
215-1, KOYASUDORI, KANAGAWA-KU, YOKOHAMA-CITY, JAPAN
9. Types of Processing Equipment

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
BSA	POLLOCK				X
	PACIFIC COD				X
	YELLOWFIN SOLE				X
	SABLEFISH				X
	HERRING				X
	OTHER FLOINDERS				X
	SQUID				X
	OTHER GROUNDFISH				X
	PACIFIC OCEAN PERCH				X
GOA	POLLOCK				X
	PACIFIC COD				X
	FLOUNDERS				X
	PACIFIC OCEAN PERCH				X
	OTHER ROCKFISHES				X
	SQUID				X
	ATKA MACKEREL				X
	OTHER GROUNDFISH				X
SBL	SABLEFISH				X
CRB	TANNER CRAB				X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag?

☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. JA-78-1143

1. Name of Vessel KAISEI MARU NO.7 2. Visual Identifier (Call Sign) J L H F
3. Type of Vessel CARGO/TRANSPORT 4. Length 60 M
5. Gross Tonnage 766 M.T. 6. Net Tonnage 352 M.T. 7. Maximum Speed (knots) 11
8. Owner's Name and Address YUKO FUKUDA
160, HONGO 3 CHOME, NAKAKU YOKOHAMA, KANAGAWA-KEN
9. Types of Processing Equipment

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
BSA	POLLOCK				X
	PACIFIC COD				X
	YELLOWFIN SOLE				X
	SABLEFISH				X
	HERRING				X
	OTHER FLOINDERS				X
	SQUID				X
	OTHER GROUNDFISH				X
	PACIFIC OCEAN PERCH				X
GOA	POLLOCK				X
	PACIFIC COD				X
	FLOUNDERS				X
	PACIFIC OCEAN PERCH				X
	OTHER ROCKFISHES				X
	SQUID				X
	ATKA MACKEREL				X
	OTHER GROUNDFISH				X
SBL	SABLEFISH				X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:

☒ No ☐ Yes. (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. JA-78-0553

1. Name of Vessel PATAN MARU NO. 188 2. Visual Identifier (Call Sign) JAFV
3. Type of Vessel STERN TRAWLER 4. Length 54 METERS
5. Gross Tonnage 499 TONS 6. Net Tonnage 182 TONS 7. Maximum Speed (knots) 14
8. Owner's Name and Address OHURA GYOGYO KABUSHIKI KAISHA
5-9-32, CHUUOH, WAKKANAI-SHI, HOKKAIDO, JAPAN.
9. Types of Processing Equipment
FLASH FREEZER, HEADER, EVISCERATOR, STRAPING MACHINE

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
BSA	POLLOCK	BOTTOM TRAWL	X	X	
	PACIFIC OCEAN PERCH	BOTTOM TRAWL	X	X	
	SABLEFISH	BOTTOM TRAWL	X	X	
	YELLOWFIN SOLE	BOTTOM TRAWL	X	X	
	OTHER FLOUNDERS	BOTTOM TRAWL	X	X	
	PACIFIC COD	BOTTOM TRAWL	X	X	
	SQUID	BOTTOM TRAWL	X	X	
	HERRING	BOTTOM TRAWL	X	X	
	OTHER GROUND FISHES	BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:

☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[FR Doc. 78-18807 Filed 7-10-78; 8:45 am]

Federal Register

TUESDAY, JULY 11, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

PRELIMINARY NOTIFICATION OF HAZARDOUS WASTE ACTIVITIES

Proposed Procedures

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

[FRL 896-8]

PRELIMINARY NOTIFICATION OF HAZARDOUS WASTE ACTIVITIES

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules:

SUMMARY: These proposed rules set forth the procedures for preliminary notification of hazardous waste activities. They define administrative procedures under which States may be granted the authority to receive notifications of hazardous waste activities, and they specify the procedures for filing such notifications by persons conducting hazardous waste activities. The Environmental Protection Agency (EPA) is proposing rules in order to facilitate notification of hazardous waste activities for both those persons who must file notifications and those who will receive them.

DATES: All comments received on or before September 11, 1978, will be considered by the Agency before taking action on the proposed rules.

HEARING

Oral or written comments may be submitted at the public hearings on these proposed rules.

The hearings are scheduled for August 21, 1978, at the Holiday Inn—Airport, I-26 and West Aviation Avenue, Charleston, S.C., 803-744-1621; August 18, 1978, at the Cleveland Plaza Hotel, Euclid at East 12th Street, Cleveland, Ohio, 216-696-6800; and August 24, 1978, at the EPA Regional Office, 215 Fremont Street, San Francisco, Calif., 415-556-6695. Requests to participate in the public hearings should be directed to Mrs. Gerri Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460, 202-755-9157. Registration for each hearing will be held between 12:30 and 1 p.m. The hearings will be held from 1 to 6 p.m. There will also be an evening session in San Francisco beginning at 7:30 p.m.

ADDRESSES: Comments should be submitted to: Deputy Assistant Administrator for Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket or notice number, which is 3010 for these proposed rules.

The official record for this rulemaking is located in Room 2111D, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy Fields, Jr., Hazardous Waste Managment Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460, 202-755-9206.

SUPPLEMENTARY INFORMATION: Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), creates a regulatory framework to control hazardous waste. Congress has found that such waste presents "special dangers to health and requires a greater degree of regulation than does nonhazardous solid waste" (sec. 1002(b)(5)). Because of the seriousness of this waste problem, Congress intended that the States develop programs to control it. In the event that States do not choose to operate this program, EPA is mandated to do so.

This rule is one of a series of seven being developed and proposed under Subtitle C to implement the hazardous waste management program. It is important to note the definition of solid waste (sec. 1004(27)) which encompasses garbage, refuse, sludges and other discarded materials, including liquids, semi-solids, and contained gases (with a few exceptions), from both municipal and industrial sources. Hazardous wastes, which are a subset of all solid wastes and which will be identified or listed by regulations promulgated under section 3001, are those which have particularly significant impacts on public health and the environment.

Subtitle C creates a management control system which for those wastes defined as hazardous, requires "cradle-to-grave" cognizance, including appropriate monitoring, recordkeeping and reporting throughout the system. Section 3001 requires EPA to define criteria and methods for identifying and listing hazardous wastes. Those wastes which are identified or listed as hazardous by these means are then included in the management control system constructed under sections 3002-3006 and 3010. Those that are excluded will be subject to the requirements for nonhazardous solid waste being carried out by States under Subtitle D under which open dumping is prohibited and environmentally acceptable practices are required.

Section 3002 addresses the standards applicable to generators. EPA's regulations under this section define generators to exclude individual homeowners and others who, due to the small quantities of hazardous wastes which they produce, do not pose a significant threat to human health or the environment. These persons are not required to submit notifications under section 3010. Section 3002 also requires the creation of a manifest system which will track wastes from the point of generation to their ultimate disposition.

Section 3003 addresses standards affecting transporters of hazardous wastes to assure that wastes are carefully managed during the transport phase. The Agency is exploring opportunities for meshing closely with proposed and current U.S. Department of Transportation (DOT) regulations to avoid duplication in this area.

Section 3004 addresses standards affecting owners and operators of hazardous waste storage, treatment, and disposal facilities. These standards define the levels of environmental protection to be achieved by these facilities and provide the criteria against which EPA (or State) officials will measure applications for permits. Facilities on a generator's property as well as off-site facilities are covered by these regulations and do require permits; generators and transporters do not otherwise need permits. It should be noted that only active hazardous waste treatment, storage, and disposal facility owners and operators are required to notify.

Section 3005 regulations describe the scope and coverage of the actual permit-granting process for facility owners and operators. Requirements for the permit application as well as for the issuance and revocation process are to be defined by these regulations. Section 3005(e) provides for interim status during the time period that the Agency or the States are reviewing the pending permit applications.

Section 3006 requires EPA to issue guidelines for State programs and procedures by which States may seek both full and interim authorization to carry out the hazardous waste program in lieu of the EPA-administered program. States seeking authorization in accordance with section 3006 guidelines need to demonstrate that their hazardous waste management regulations are consistent with and equivalent in effect to EPA regulations as a condition for receiving EPA authorization under section 3006 to operate and enforce a hazardous waste management program.

Section 3010 requires any person generating, transporting, owning, or operating a facility for storage, treatment, and disposal of hazardous waste to notify EPA of this activity within 90 days after promulgation or revision of regulations identifying and listing a hazardous waste pursuant to section 3001. No hazardous waste subject to Subtitle C regulation may be legally transported, treated, stored, or disposed after the 90-day period unless

this timely notification is given to EPA or an authorized State during the above 90-day period.

These proposed rules define the procedures for giving notification under section 3010 and also establish procedures for authorizing the States to receive such notifications.

A cross reference of the numbered sections of the act to the subpart designations to be used in the regulations is presented in Table A.

TABLE A

(1) Subpart A—Section 3001; Standards for Criteria, Identification, and Listing of Hazardous Waste.

(2) Subpart B—Section 3002; Standards Applicable to Generators of Hazardous Waste.

(3) Subpart C—Section 3003; Standards Applicable to Transporters of Hazardous Waste.

(4) Subpart D—Section 3004; Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

(5) Subpart E—Section 3005; Permits for Treatment, Storage, or Disposal of Hazardous Waste.

(6) Subpart F—Section 3006; Guidelines for Authorized State Hazardous Waste Programs.

(7) Subpart G—Section 3010; Preliminary Notification of Hazardous Waste Activities.

RELATIONSHIP TO OTHER SUBTITLE C REGULATIONS

The statutory intent of these proposed rules is to assure that all persons who at the time these regulations are promulgated, are generating, transporting, treating, storing, or disposing of hazardous wastes identified or listed under section 3001 regulations notify EPA or an authorized State of these activities. The section 3001 regulations and the regulations under sections 3002, 3003, 3004, and 3005 are scheduled to be promulgated concurrently in late 1978 and will become effective 180 days after promulgation. During the first 90 days of this time period, all persons subject to these rules must notify either EPA or an authorized State pursuant to these rules. Within the 180-day period, those persons required to obtain a facility permit pursuant to the section 3005 regulations must apply to EPA or an authorized State for a permit. Satisfaction of these two requirements by persons owning or operating existing facilities requiring a facility permit will qualify them for interim status until a permit is issued. Failure to satisfy both requirements will prevent such persons from legally treating, disposing, or storing (for more than 90 days) hazardous waste after the 180-day period. Satisfaction of the notification requirement by all other persons subject to these rules will enable them to legally transport or store (for less than 90 days) hazardous waste after the 180-day period. Accordingly, notification pursuant to these rules is required by all persons who generate, transport, treat, store, or dispose of identified or listed hazardous waste.

Failure to comply with this regulation can result in civil and/or criminal penalties of as much as $25,000 a day for each day of violation. Any person who knowingly makes a false statement or representation in filing notification of hazardous waste activity shall, upon conviction, be subject to a fine of not more than $25,000, or to imprisonment not to exceed 1 year, or both.

Section 3001 regulations will probably be revised from time to time to identify or list additional hazardous waste. Section 250.821 of this regulation requires that generators, transporters, treaters, storers, and disposers of these wastes notify EPA or an authorized State 90 days after such revision. (Persons unaffected by a revision need not submit additional notification.) In addition, affected persons may be required under section 3005 to apply for a new or a revised facility permit before the revised section 3001 regulation becomes effective (180 days after promulgation). To reduce the burden of notification, those persons who must both notify and apply for a new or a revised facility permit may accomplish notification with their application for a new or a revised facility permit, provided the application is submitted within the first 90 days after promulgation of the revised section 3001 regulations.

Generators and transporters who must both notify and obtain an identification code pursuant to revisions in section 3001 may accomplish notification with their submission of the information required to obtain the identification code, provided that the information is submitted within the first 90 days after promulgation of the revised section 3001 regulations.

Section 3010 requires an inventory of all persons generating, transporting, treating, storing, or disposing of hazardous waste identified or listed in the section 3001 regulations or revisions thereof on the date of their promulgation. Consequently, all persons who carry out such activities on the date of promulgation of the section 3001 regulations or revisions thereof are required to notify. Persons who initiate such activities after the date of promulgation of the section 3001 regulations or revisions thereof are not required to notify pursuant to these rules. However, these persons (new entrants) will be required to notify EPA or an authorized State of their hazardous waste activities pursuant to the sections 3002, 3003, and 3005 regulations promulgated under Subtitle C. Briefly, this means that persons who begin to treat, dispose, or store (for more than 90 days) hazardous wastes, must apply for a permit in accordance with section 3005 regulations, and persons who generate and/or transport hazardous waste have responsibility for preparing and handling a manifest pursuant to sections 3002 and 3003, respectively, which serves to notify EPA or the authorized State of such activity. All new entrants will be assigned a unique identification number.

NOTIFICATION PROCESS

These proposed rules specify who must file notification of hazardous waste activity, when and where notification must be filed and what such notification must contain. These proposed rules also contain a suggested sample form for use in filing notification (see Table I). Use of the sample form is not mandatory, but its use is encouraged to facilitate the notification process.

To assist in complying with these rules, EPA intends to mail a sample form and instructions to all known persons who may be required to notify. EPA will also encourage authorized States to use a similar procedure. Failure of the Agency or the authorized State to reach any affected person will not, however, relieve that person of the legal requirement to notify.

After receiving a notification, EPA intends to mail a facility permit application form to those persons believed to require a facility permit under section 3005. EPA will also encourage authorized States to do the same. The failure of the Agency or the authorized State to reach any of these affected persons will not, however, relieve that person of the legal requirement to apply for a permit. To alleviate the second mailing, consideration is being given to including the facility permit application in the mailing of the sample notification form and instructions. Those persons who are required to both notify and apply for a facility permit could therefore elect to comply with both requirements simultaneously.

AUTHORIZATION OF STATES TO RECEIVE NOTIFICATIONS

These proposed rules establish procedures for authorizing States to receive notifications. These rules are being proposed and will also be promulgated before the section 3001 and other concurrent regulations in order to give the States opportunity to obtain authorization before promulgation of the section 3001 regulations starts the 90-day notification period. EPA and the authorized States must be ready to receive notifications when the section 3001 regulations are promulgated. A list of the State agencies authorized to receive notifications will be published in the FEDERAL REGISTER

prior to or at the time of promulgation of the section 3001 regulations or revisions thereof.

States will be authorized to receive notifications under the limited authorization provisions of section 3010. This will be called "limited interim authorization" and if granted, will be granted separate and apart from the "interim or full authorizations" granted under section 3006, and without regard to whether the State receives an interim or full authorization under section 3006. These limited interim authorizations are intended to enable the States to receive the "initial" notifications—those to be received during the 90-days following the promulgation of the section 3001 regulations—even though they have not been granted an interim or full authorization under section 3006. Few, if any, States will receive interim or full authorization under section 3006 before or during the said 90-day period, yet it is EPA's policy to allow those States that are likely to be granted such authorization to also be granted the authority to manage the notification process.

It is important to note that notification required subsequent to this initial notification process as a result of revisions to section 3001 regulations, when not administered by the EPA Regions, shall be conducted only by States having section 3006 authorization. Limited interim authorization, therefore, is a one-time authorization which terminates on the date 6 months after the date of promulgation of the section 3001 regulations.

If a State which has been granted limited interim authorization fails to apply for, or receive interim or full authorization, EPA must assume responsibility for managing the subsequent regulatory requirements of subtitle C. this disjointed program administration can create problems, e.g., in efficient processing of applications for facility permits which are received during the 6-month period following promulgation of the section 3001 regulations.

To minimize such potential problems, these proposed rules impose three requirements upon States in order to obtain a limited interim authorization. These requirements are as follows:

1. In its request for limited interim authorization, the State must declare its intent to apply for an interim or full authorization before or during the 90-day period following the promulgation of the section 3001 regulations.

2. At EPA's request, the State must provide EPA with the information received through notification so that the Agency, if necessary, can effectively carry out the subsequent regulatory activities of subtitle C.

3. In its request for limited interim authorization, the State must provide for making facility permit application forms available to prospective permittees identified in the notification process.

Further, the authorized States will be encouraged to operate and manage the notification process in the same or an equivalent manner to that employed by EPA in order to achieve as much national uniformity as possible. This will simplify the notification burden on those persons who may have to notify for hazardous waste activities carried out in two or more States. The manner in which the State intends to carry out the notification process will be articulated in the plan that a State submits as part of its request for limited interim authorization. The degree of equivalency with EPA's management of the process will be one of the criteria used to determine whether to grant authorization.

Hazardous Waste Definition

If a State is granted limited interim authorization by EPA to manage the notification program, all persons (generators, transporters, treaters, storers, and disposers) that are affected by the section 3001 regulations identifying and listing hazardous waste will be required to notify that State. If a State hazardous waste definition is more stringent than that promulgated under section 3001 regulations, then the applicable State agency could use this definition for the purpose of notification by affected persons in that State. State hazardous waste definitions which are less stringent than that promulgated pursuant to section 3001 regulations cannot be used for notification purposes.

Confidentiality Provisions

The Freedom of Information Act (5 U.S.C. 552) includes a provision under which trade secrets and commercial or financial information may be exempted from public disclosure. The Agency believes that similar provisions in States' "Trade Secret Acts" or "Public Records Acts" make a significant contribution to securing the confidence of the regulated community since this legislation assures that information submitted to the State regulatory agency will be adequately safeguarded. State legislation of this type will not be required for authorization to handle the notification program. States should be aware, nevertheless, that provisions for the safeguarding of confidential information are an important part of an effective State regulatory program and that the protection of this type of information may be essential to winning the confidence of the regulated community.

With respect to notifications submitted to EPA, these proposed rules would allow affected persons to make confidentiality claims in three areas of their notification responses: (a) types of hazardous waste handled, as identified by criteria under section 3001 regulations, (b) description of hazardous wastes handled, and identified by listing under section 3001 regulations, or by general type, and (c) estimated amount of hazardous wastes handled annually (optional item).

Comments are requested from interested parties as to which notification items should provide for a confidentiality claim, and reasons why each such item should be considered confidential.

EPA is considering requiring affected parties to provide substantiation of their confidentiality claims at the time of initial notification. There are two options.

The first option is the one in these proposed rules. Affected parties would be allowed to make confidentiality claims without providing substantiation at the time of initial notification. If a request for information submitted was made later, EPA would then request that the affected person(s) provide substantiation of confidentiality claim(s) in accordance with 40 CFR Part 2, Subpart B. If there are a large number of requests from the public for copies of notifications, there will be a burden on the EPA regional office resources to request substantiation from each submitter.

The second option is designed to avoid that problem by requiring submission of substantiation at the time of initial notification. EPA would not have to go back to submitters again if requests were received by EPA for notification responses containing confidentiality claims. However, this would place an additional initial reporting burden upon affected parties.

Comments are requested on these or other options for the confidentiality provisions. In addition, suggestions on ways of making the notification items reasonably accessible to the public would be appreciated.

It should be noted that EPA plans to provide for separation of potentially confidential and nonconfidential notification items in the final regulations. Separate sheets of paper shall be submitted by affected persons for inclusion of confidential information.

Reporting Impact

EPA considers the information required by these rules to be the minimum necessary to effectively administer the notification program. Since most of the requested information will be on hand, little time should be needed to prepare the notification response. The greatest burden would come in those instances where some analysis of waste was required. However, since this information is also required to comply with other regulations under the act, it is not a report-

ing burden imposed by these regulations alone. Comments from interested parties on the estimated reporting impact of these proposed regulations will be appreciated. A reporting impact analysis is being conducted in support of these and other subtitle C regulations.

ECONOMIC AND ENVIRONMENTAL IMPACTS

In accordance with Executive Orders 12044 and 11821, as amended by Executive Order 11949, and OMB Circular A-107 and EPA policy as stipulated in 39 FR 37419, October 21, 1974, respectively, analyses of economic and environmental impacts are being performed for the entirety of subtitle C, hazardous waste management, but are not yet completed. Any additional economic impact on the public resulting from implementation of this regulation is expected to be negligible since notification is required only once, and is primarily an administrative procedure.

Dated: July 3, 1978.

BARBARA BLUM,
Acting Administrator.

Title 40, CFR, Part 250 would be amended by adding a subpart G consisting of § 250.800-250.823 as follows:

PART 250—HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Subpart G—Preliminary Notification of Hazardous Waste Activities

Sec.
250.800 Scope and purpose.
250.801 Definitions.
250.810 Limited interim authorization.
250.811 Application procedures for States.
250.812 Responsibilities and authority of the EPA Regional Administrator.
250.820 Who must file notification.
250.821 When to file notification.
250.822 Where to file notification.
250.823 Information required in notification.

AUTHORITY: Sec. 2002(a)(1), Pub. L. 94-580, 90 Stat. 2804 (42 U.S.C. 6912) and sec. 3010(a), Pub. L. 94-580, 90 Stat. 2812 (42 U.S.C. 6930).

§ 250.800 Scope and purpose.

(a) Section 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6930), requires that any person generating or transporting, or owning or operating a facility for treatment, storage, or disposal of hazardous waste, must notify the Administrator or authorized State not later than 90 days after promulgation or revision of regulations under section 3001.

(b) These rules specify in more detail who must file notification of hazardous waste activity, when and where notification must be filed, and what such notification must contain.

(c) In addition, these rules establish the means by which State governments that are developing and/or implementing hazardous waste management programs may receive notification from affected persons within their jurisdictions.

§ 250.801 Definitions.

For the purpose of this part:

(a) The term "disposal of hazardous waste" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(b) The term "hazardous waste" means any solid waste defined as hazardous under subpart A of this part.

(c) The term "hazardous waste activity" means the handling of hazardous waste via the generation, transportation, treatment, storage, or disposal of any hazardous waste.

(d) The term "hazardous waste generation" means the act or process of producing a hazardous waste.

(e) The term "limited interim authorization" means the authorization given to a State agency by the appropriate EPA Regional Administrator to receive notifications of hazardous waste activities under section 3010 during the 180 days following the promulgation of regulations under section 3001. Such authorization has no effect on whether the State receives interim or full authorization under section 3006.

(f) The term "onsite" means on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous and are divided by public or private right(s)-of-way are considered a single site.

(g) The term "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, any interstate body, or Federal Government agency.

(h) The term "place of operation" means a manufacturing, processing, or assembly establishment; a transportation terminal; or a treatment, storage, or disposal facility operated by a person at a single site.

(i) The term "responsible individual" means an individual authorized to sign official documents for and act on behalf of a company or organization.

(j) The term "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(k) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(l) The term "storage of hazardous waste" means containment, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(m) The term "terminal" means the location of transportation facilities such as classification yards, docks, airports, management offices, storage sheds, and freight and passenger stations, where hazardous waste which is being transported may be loaded, unloaded, transferred, or temporarily stored.

(n) The term "treatment of hazardous waste" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.

§ 250.810 Limited interim authorization.

(a) Upon application by a State, an EPA Regional Administrator may grant a State within that region the following authority:

(1) To receive notifications of hazardous waste activity from persons seeking to comply with section 3010 requirements.

(2) To conduct programs supplementary to EPA programs to promote compliance with section 3010 requirements.

(b) Under limited interim authorization, the EPA reserves at least the following authority:

(1) To promulgate regulations pursuant to section 3010.

(2) To enforce preliminary notification regulations.

(c) Under limited interim authorization, States shall not grant exemptions regarding who must file notifications, when notification must be filed, or what information this notification must contain.

(d) A State may receive limited interim authorization only once. All

such authorizations end on the date six months after regulations are first promulgated under section 3001 of the act.

§ 250.811 Application procedures for States.

(a) States seeking limited interim authorization for section 3010 must make a written application to the appropriate EPA Regional Administrator containing the following items:

(1) A statement of the State's intent to apply for interim or full authorization under section 3006 before or during the 90-day period following the promulgation of the section 3001 regulations.

(2) A plan for implementation by the State, in coordination with the EPA Region, of section 3010 requirements, including plans for informing affected persons of the notification requirements, for furnishing to the EPA names and addresses of persons whom the State reasonably believes have failed to comply with notification regulations and for analyses of the data received from affected persons.

(3) A statement of agreement to maintain files and any information received from notification for 3 years after receipt of notification, and to make available any such notification information to the EPA in accordance with requests from the EPA Regional Administrator;

(4) A plan of implementation by the State, in coordination with the EPA Region, for providing notice to the public and to those prospective permittees identified in the notification process of the facility permit requirements and of the availability of the facility permit applications forms. The plan shall include provisions for the State's receipt and processing of all permit applications submitted.

(b) States seeking limited interim authorization must file the above written applications not later than sixty (60) calendar days after promulgation of these notification regulations.

§ 250.812 Responsibilities and authority of the EPA Regional Administrator.

(a) The EPA Regional Administrator shall have the authority to grant or withhold limited interim authorization.

(b) The EPA Regional Administrator shall consider each State application for limited interim authorization. If an application does not meet all requirements of § 250.811(a) (1) and (3), the Regional Administrator shall not grant limited interim authorization. If the Regional Administrator is not satisfied that the State-proposed plans in § 250.811(a) (2) and (4) are adequate for implementation of section 3010, he/she shall withhold limited interim authorization.

(c) If the Regional Administrator determines that a State application is unsatisfactory, he/she shall inform that State in writing of the reasons within 15 working days of receipt of the application. The Regional Administrator may then allow that State to submit another application within 15 working days for EPA consideration.

(d) If the Regional Administrator finds a State application acceptable, he/she shall execute an agreement with that State, signed by the Regional Administrator and an official of the responsible State agency, granting limited interim authorization to implement section 3010 requirements. All such agreements shall be effective no later than 120 calendar days after promulgation of these preliminary notification regulations and shall terminate on the effective date of the section 3001 regulations (6 months after promulgation).

§ 250.820 Who must file notification.

(a) Every person conducting a hazardous waste activity at the time of promulgation or revision of section 3001 regulations must file notification in accordance with these regulations. This notification constitutes one of the conditions for interim status for all persons who treat, store, and dispose of hazardous waste. Owners of inactive hazardous waste treatment, storage, and disposal facilities are not required to notify. Those persons who must both notify and either seek a generator or a transporter identification code or apply for a new or a revised facility permit pursuant to revision of section 3001 regulations may accomplish notification with either the submission of the information required for the respective identification code, or with the submission of the application for a new or a revised facility permit, provided such information is submitted within the first 90 days after promulgation of the revised section 3001 regulations. Further definition of what is a hazardous waste, who is a generator; who is a transporter; and who is an owner or operator of a treatment, storage or disposal facility is given in regulations promulgated under sections 3001, 3002, 3003, 3004, and 3005 of the act.

(b) *Special cases.*—(1) *Corporations.* A responsible individual of the corporation shall file notification.

(i) A group of establishments, plants, transportation terminals, etc., located at a single site under the ownership or operation of one person may file a single notification.

(ii) A person owning and operating more than one place of operation may file a single notification for all facilities provided:

(A) All required information is clearly stated separately for each place of operation, and

(B) Copies of the pertinent information in this single notification are sent to each EPA Regional Office (or authorized State) having jurisdiction over the area in which the places of operation are located.

(2) *Highway transporters.* A responsible individual shall file notification for each terminal the transporter owns and utilizes for vehicles transporting hazardous wastes,

(3) *Railroad or pipeline companies.* A responsible individual may file a single notification for the entire rail line or pipeline, provided that copies of this notification are sent to each EPA Regional Office (or authorized State) having jurisdiction over the area in which the railroad or pipeline is located.

(4) Federal agencies conducting hazardous waste activities must comply with all notification requirements in the same manner as other persons.

(5) Federal on-scene coordinators, when acting in their official capacity under the provisions of section 311 of the Federal Water Pollution Control Act, and the national oil and hazardous substance pollution contingency plan, are not included under the requirements of these regulations.

(6) These regulations do not apply to persons who transport hazardous materials which have been spilled.

§ 250.821 When to file notification.

(a) Persons conducting hazardous waste activities at the time of promulgation or revision of Section 3001 regulations ("hazardous waste identification and listing") must file notifications not later than ninety (90) days after promulgation or revision of section 3001 regulations.

(b) Any person conducting hazardous waste activities at the time of promulgation or revision of section 3001 regulations who does not file notification of such activity within 90 days of the date of this promulgation or revision is in violation of these notification regulations and may be subject to the penalties described under section 3008 of the act. No hazardous waste may be legally transported, treated, stored, or disposed unless notification has been made. It should be noted that late notification is a violation of section 3010 and subjects such person to possible enforcement action.

§ 250.822 Where to file notification.

(a) Persons must file notifications with the appropriate EPA Regional Administrator or State which has been granted limited interim authorization. Copies of the pertinent notification information shall be sent to each EPA Regional Administrator or designated State agency in which the person's places of operation are located.

(b) Persons owning or operating several places of operation should refer to § 250.820(b).

(c) A list of names and addresses of all State agencies granted the limited

interim authorization to receive notifications will be published in the FEDERAL REGISTER before or at the time of promulgation of section 3001 regulations.

§ 250.823 Information required in notification.

(a) If a person fully and accurately completes and returns the form presented in these regulations (see table I) for each place of operation, the person will have complied with the requirements of § 250.823 of these regulations. Persons utilizing this form may submit additional information or documents as a part of the notification submission.

(b) If a person chooses not to use the form, that person must file a written notification stating clearly and legibly the following information (for each place of operation):

(1) The name of the organization and place of operation.

(2) The mailing address and location of the place of operation.

(3) The principal activity of the place of operation, either by four-digit standard industrial classification (SIC) code or by other description (e.g., inorganic chemical manufacturing, petroleum refining, etc.).

(4) An identification number for the place of operation.

(i) If a person has an Internal Revenue Service employer identification number (EIN), this number shall be provided.

(ii) A person who operates more than one place of operation with the same EIN for all shall designate a separate suffix to the EIN to distinguish each place of operation (e.g., (EIN No.) -2, (EIN No.) -3).

(iii) Federal facilities shall provide the General Services Administration agency and facility number.

(iv) Transporters shall provide their Interstate Commerce Commission number; however, if a transporter does not have such a number, he/she shall provide his/her Public Utilities Commission number, or other permit number (as assigned by State Health Department, etc.).

(v) All notifiers shall state the specific sources (IRS, ICC, etc.) of the identification number.

(vi) If a person does not have an already assigned identification number, this fact shall be stated. An identification number will then be assigned by EPA (or the designated State agency).

(5) The name, telephone number, and address of a responsible individual at the place of operation who could be contacted for clarification of information submitted in the notification.

(6) The following statement, with signature, name, title, and date: "I hereby certify that the information provided herein is complete and correct to the best of my knowledge. I understand that all information in this notification may be made available to the public, unless otherwise noted, according to §250.823 (b) (10). I am authorized to sign official documents for my organization."

(7) The type (s) of hazardous waste activity conducted by the person, i.e., generation, transportation, treatment, storage, or disposal of hazardous waste. Treatment, storage, or disposal activities conducted at the site of waste generation shall be indicated as "onsite treatment," etc. Persons who transport hazardous waste shall indicate the mode (air, rail, highway, water, etc.) of transportation.

(8) The types of hazardous waste handled by the person, as identified by criteria under section 3001 regulations. All wastes which are ignitable, reactive, infectious, radioactive, or corrosive must be described as such. However, persons who cannot in the 90-day period allowed definitively determine whether their wastes are toxic may so indicate. If, after the 90-day period, it is determined that a waste is nontoxic, a statement to this effect must be filed no later than 180 days after promulgation of section 3001 regulations. Otherwise, the person will be considered for notification purposes, to be conducting hazardous waste activities. If, at some future date, a person determines that his waste is not hazardous according to section 3001 regulations or if he ceases to handle hazardous waste, he may file a statement to this effect, and he will no longer be considered to be conducting hazardous waste activities under this section.

(9) A description of the hazardous waste handled as identified by listing under the section 3001 regulations or by the general type specified in said regulation and specific contents (where known) using the best available information (e.g., "wastewater treatment sludge containing lead compounds").

(10) A statement indicating what information, if any, in § 250.823(b), numbers (8), (9), and (11) (types, description, and quantities of hazardous waste), is to be considered confidential business information. If the information is claimed as confidential, it will be treated in accordance with the confidentiality of business information regulations in 40 CFR Part 2, Subpart B. When reported on the sample form, information that is not claimed by the person filing notification as confidential may be released to the public without further notice to the person who submitted it. The EPA or the designated State agency will make the final determination as to whether information submitted is in fact confidential.

(11) Optional: An estimate of the annual amount of hazardous waste handled based on the period from January 1, 1977, to December 31, 1977. For persons not conducting hazardous waste activities during any or all of that period, the annual volume should be estimated in the best practical manner.

TABLE I

NOTIFICATION FORM WITH INSTRUCTIONS

OMB No.

NOTE: READ ALL INSTRUCTIONS BEFORE COMPLETING	NOTIFICATION OF HAZARDOUS WASTE ACTIVITY (Section 3010(a), Resource Conservation and Recovery Act of 1976, 42 USC 6930)	EPA USE ONLY NUMBER_____ COMPLETE ☐ YES ☐ NO

IDENTIFICATION

1. (a) Name of organization and place of operation_____

(b) Mailing address and location of place of operation_____

(c) Principal activity of person *(4-digit SIC number or written description)*_____

(d) Identification number_____ Source of identification number_____

PRINCIPAL TECHNICAL CONTACT(S)

2. (a) Name(s) and telephone number(s)_____

(b) Address(es) *(Same order as names.)*_____

CERTIFICATION

I hereby certify that the information provided herein is complete and correct to the best of my knowledge. I understand that all information on this form may be made available to the public unless otherwise noted under item number 8. I am authorized to sign official documents for my organization.

3. (a)_____ SIGNATURE (b)_____ NAME AND TITLE *(Print or type)* (c)_____ DATE

WASTE INFORMATION

4. Types of hazardous waste activities *(Check all applicable boxes and circle mode of transport in part (b).)*

(a) ☐ Generate

(b) ☐ Transport—mode *(air, barge, rail, truck, other)*

(c) ☐ Treat/store/dispose *(at site of waste generation)*

(d) ☐ Treat/store/dispose *(other than at site of waste generation)*

5. Types of hazardous wastes handled, as identified by criteria under Section 3001 regulations. Does the place of operation generate, transport, treat, store or dispose of any hazardous wastes of the following types? *(Place an "X" in each appropriate box.)*

WASTE TYPE	YES	NO	WASTE TYPE	YES	NO	UNDETERMINED
(a) Ignitable			(d) Radioactive			
(b) Reactive			(e) Corrosive			
(c) Infectious			(f) Toxic			

6. Description of hazardous waste handled as identified by listing under Section 3001 regulations, or by general type and specific contents using the best available information *(e.g., "wastewater treatment sludge containing lead compounds")*. Continue in the *"Additional Information"* section on page 2 if necessary.

_____

_____

_____

(CONTINUED ON PAGE 2)

7. Optional: Estimated amount of hazardous waste handled annually *(volume/year or weight/year, based on calendar year 1977)*.

_____

CONFIDENTIALITY CLAIM

8. If you claim any information contained in items 5, 6 and 7 as confidential business information, indicate that below by putting an "X" in the appropriate box(es). Any information reported to EPA that is claimed as confidential will be treated in accordance with the confidentiality regulations in 40 CFR Part 2, Subpart B.

NOTE: If you fail to assert a confidentiality claim, EPA may make this information available to the public without further notice to you.

☐ ITEM 5 ☐ ITEM 6 ☐ ITEM 7

WARNING

No hazardous waste, as defined under Section 3001 regulations, 42 USC 6921, may be transported, stored, treated, or disposed of unless notification of hazardous waste activity has been submitted to the EPA or authorized State authorities according to regulations promulgated under Section 3010, P.L. 94-580. Failure to comply with this regulation can result in civil and/or criminal penalties of as much as $25,000 a day for each day of violation. Any person who knowingly makes a false statement or representation in filing notification of hazardous waste activity shall, upon conviction, be subject to a fine of not more than $25,000, or to imprisonment not to exceed one year, or both.

ADDITIONAL INFORMATION

Please indicate the number of the item being referred to.

GENERAL INSTRUCTIONS

Section 3010(a) of the Resource Conservation and Recovery Act *(RCRA)* of 1976 *(P.L. 94–580)* requires that all persons who generate, transport, treat, store, or dispose of a hazardous waste file notification of such activities with the EPA *(or with States having authorized hazardous waste notification programs)*. "*Person*" is defined as an individual, trust, firm, joint stock company, corporation *(including a government corporation)*, partnership, association, State, any interstate body, or Federal Government agency. Notification must be filed within ninety *(90)* days from the date of promulgation or revision of Section 3001 regulations identifying or listing hazardous waste by all persons conducting hazardous waste activities on that date.

The EPA is providing a form suggested for use in complying with the notification requirements of Section 3010. Use of this form is optional. Completion by a person of this form for each place of operation, with the exception noted under item 5(f), and transmittal to the appropriate authority *(or authorities)* will satisfy all requirements under Section 3010, P.L. 94–580.

Every person who completes the notification form or otherwise files notification of hazardous waste activity should carefully read the regulations *(40 CFR Part 250)* and these instructions. The completed form(s) or other notification must be signed by an authorized officer of the organization or his duly authorized designee and sent to the appropriate authorities, whose addresses will be supplied in a "*Notice*" to be published in the Federal Register prior to or at the time of promulgation of final Section 3001 regulations and any subsequent revisions.

SPECIFIC INSTRUCTIONS

Type or print in ink all items, except "*3(a) Signature*."

1. (a) Name of organization and place of operation. Enter the name of the organization *(corporation, Federal Agency, etc.)* as well as any names specific to the individual place of operation, for example, "*ABCD Company, XYZ Manufacturing Plant.*"

   (b) Address. Give both the mailing address of the place of operation and the location if it is different from the mailing address.

   (c) Principal activity of person. Enter either the principal Standard Industrial Classification *(SIC)* number or the major products manufactured or services provided by the person; for example, "*petroleum refining,*" or "*munitions storage and disposal.*"

   (d) Identification Number. If you have an Internal Revenue Service *(IRS)* Employer Identification Number *(EIN)*, enter it here. Federal facilities shall enter the General Services Administration *(GSA)* agency and facility number. Anyone filing notification for more than one place of operation *(with the same EIN for each)* should designate a separate suffix to the EIN for each place of operation *(e.g., (EIN No.)–2, (EIN No.)–3)*.

   In addition, transporters shall enter one of the following numbers *(in order of preference)*: (1) Interstate Commerce Commission number, (2) Public Utilities Commission number, or (3) other permit number *(State Health Department, etc.)*.

   The specific source *(IRS, ICC, etc.)* of each number entered shall be provided.

2. Principal technical contact(s). Enter the name, address, and telephone number of an individual or individuals at the place of operation whom the EPA or designated State agency may contact for clarification of information submitted on this form.

3. Certification. An individual authorized by a company or organization officer to sign official documents on their behalf should enter his signature, name and title, and date.

4. Persons filing notification should consult Subpart G regulations for relevant definitions of hazardous waste activities. The type(s) of transport mechanism *(e.g., truck, railroad, etc.)* must be provided.

5. Types of hazardous waste as identified by criteria. Each appropriate category should be indicated. Test protocols are being published under Section 3001 regulations. These tests are the final determinants of whether or not a waste is hazardous.

   It should be noted that if a person marks the space for "*Undetermined,*" which may be done only under category "*(f) Toxic,*" he should submit no later than 180 days after promulgation or revision of Section 3001 regulations, a statement that his wastes have been determined not to be hazardous, if this determination has been made. Otherwise, any person who indicates that he does not know whether any of his wastes are hazardous due to toxicity will be considered to be conducting hazardous waste activities for notification purposes.

6. Persons filing notification should describe accurately the hazardous waste handled, based on lists published under Section 3001 regulations or the best information available.

SPECIFIC INSTRUCTIONS (CONTINUED)

7. Optional: Estimated amount of hazardous waste handled annually. The person should enter the estimated amount of hazardous waste handled during the period January 1, 1977, to December 31, 1977. For those persons who commenced hazardous waste activities after January 1, 1977, the estimates should be for one year based on the amount of hazardous waste expected if the place of operation had operated during the full calendar year.

8. Self–explanatory.

[FR Doc. 78-18989 Filed 7-10-78; 8:45 am]

federal register

TUESDAY, JULY 11, 1978
PART V

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

FEDERAL HOME LOAN BANK BOARD

■

COMMUNITY REINVESTMENT ACT

Proposed Regulations

[6720-01]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 25]

FEDERAL RESERVE SYSTEM

[12 CFR Part 228]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 345]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563e]

Community Reinvestment Act Regulations

JUNE 30, 1978.

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: These regulations would implement the Community Reinvestment Act of 1977, which directs the named agencies to encourage the institutions they regulate to fulfill their continuing and affirmative obligation to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institutions, and to assess their record in doing so and take such assessments into account when evaluating certain applications by such institutions.

DATES: Comments must be received by August 15, 1978.

ADDRESS: Please send four sets of comments to Theodore Allison, Secretary to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551. All material submitted should refer to F.R.B. Docket No. R 0139.

FOR FURTHER INFORMATION CONTACT:

Robert Lawrence, Board of Governors of the Federal Reserve System: 202-452-3766; Alan Herlands, Comptroller of the Currency: 202-447-1177; Roger Hood, Federal Deposit Insurance Corporation: 202-389-4628; Nancy Feldman, Federal Home Loan Bank Board: 202-377-6443.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the Agencies") propose this regulation to implement the Community Reinvestment Act of 1977 ("the CRA"). The CRA, which was enacted as title VIII of the Housing and Community Development Act of 1977 (Pub. L. 95-128), requires that in connection with their examination of institutions in their jurisdiction, the Agencies assess each institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. The CRA further requires that the appropriate Agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares or assets.

The agencies announced, in notices published in the FEDERAL REGISTER on January 25, February 21, and March 29, 1978 (43 FR 3370, 7243, and 13074), a series of hearings to be held around the country. The January 25, 1978, notice contained questions regarding issues raised by the CRA, and all the notices requested testimony and written comments to aid the Agencies in drafting regulations. Substantial amounts of oral testimony and written submissions were accepted and reviewed and much of that material is reflected in the following proposals.

It is the purpose of the CRA to require the Agencies to encourage institutions to help meet the credit needs of their local communities consistent with safe and sound operations. The Agencies believe that it is more likely that community credit needs which can be met on a safe and sound basis will be met when members of the community are aware of the availability of credit, the lending institutions are well informed about community credit needs, and such institutions make a sincere effort to meet those needs.

Accordingly, the proposed regulations are designed to encourage institutions to become aware of the full range of credit needs of their communities and to seek the views of all segments of their communities regarding those needs. Institutions are encouraged to offer the types of credit and credit-related services that will meet the credit needs of their communities. The regulations, however, would not require institutions to offer particular kinds or amounts of credit. It is the purpose of the proposed regulations to encourage each institution to help meet the credit needs of its entire community while preserving to every institution the flexibility necessary to operate in a safe and sound manner, and to serve the convenience and needs of its community effectively and imaginatively.

The Agencies' proposed regulations, which are presented together for convenience, are identical in their substantive provisions, but contain procedural variations. An explanation of the provisions of the regulations, how they operate, and why they were chosen, is set forth below.

Authority. Each Agency's regulation sets forth that Agency's authority to adopt its regulations.

Purpose. The statement of purpose is adopted from the CRA. A discussion of this purpose is set forth above.

Community. The Agencies believe that there are many factors which determine a lender's community, including the institution's size, geographic factors, economic forces, and local tradition. No single definition or rigidly applied rule, therefore, would be appropriate to all communities and institutions. Accordingly, the proposed regulation would direct each institution to delineate its entire community with the aid of broad guidelines. The delineation would be available to members of the public who could offer their comments and suggestions to the institution and to the institution's supervisory agency. Agency examiners would review each institution's delineation and any community comments to insure that no areas, including low- and moderate-income neighborhoods, are unreasonably excluded from the delineation, and that the delineation is not so broad that the institution fails to focus on its local community.

The term "office", as used in the regulation, includes electronic deposit facilities unless it is otherwise modified.

COMMUNITY REINVESTMENT ACT STATEMENT

The board of directors of each institution would be required to adopt a Community Reinvesment Act ("CRA") statement. The CRA statement would include the institution's delineation of its community and a list of the types of credit that the institution would offer to members of its communities. The statement would be required to be made available to the public. Where an institution has offices serving more than one local community, it would delineate those communities and could adapt its statement to the needs of each community.

The purposes of requiring a statement would be to insure that each institution's board of directors considers the purpose of the CRA and what their institution's response will be, to inform the community of the types of credit that the institution offers, and to aid the agencies' examiners in assessing each institution's record. If an institution believes that the purposes of the CRA statement would be better served, it could incorporate additional material, such as a description of how its efforts, including special programs, relate to meeting types of credit needed by its community.

The Agencies believe that institutions are aware of the areas they serve

and have well-articulated internal loan policies. The Agencies, therefore, believe that adoption of a CRA statement would not be burdensome to institutions. However, the Agencies invite particular comment on whether institutions with assets of less than $10 million located outside standard metropolitan statistical areas should be exempted from the written statement requirement unless the Agencies impose it as a supervisory requirement in individual cases.

Institutions would be required to review their statements at least annually. They would be encouraged to review their statements in light of community comments and their experience with offering various types of credit, and to provide, as part of the statement, a public accounting of their efforts to meet community credit needs.

To aid Agency examiners and the public, each institution would be required to keep a file of all CRA statements in effect over the previous two years and of all public comments received during that period. Agency examiners would review the statement and the file in connection with their assessment of each institution's record.

ASSESSING THE RECORD

The CRA requires the Agencies to assess each institution's record of meeting the credit needs of its entire community including low- and moderate-income neighborhoods. The proposed regulation would provide for that assessment and set forth a list of factors that the Agencies would consider in making the assessment. The list is only intended to be indicative of the evidence that the Agencies would consider. Institutions may serve their communities in ways not reflected in the list and need not adopt particular activities specified in the list.

Examination procedures, to be issued later by the Agencies, will be publicly available. The Agencies will consult with State supervisory authorities regarding the assessment process.

EFFECT ON APPLICATIONS

The CRA requires the Agencies to take an institution's record into account in acting upon certain applications involving that institution. This section would implement that requirement and list the particular application to which each Agency's regulation applies. The Agencies would consult with State supervisors regarding applications involving State-chartered institutions.

The regulations of the Federal Reserve Board and the Federal Home Loan Bank Board would provide that those Agencies may consider the credit-granting record of certain subsidiaries of a holding company that is making an application covered by the CRA to the Agency.

The Agencies are considering modifications to their existing application procedures concerning public notice and opportunity to be heard, with respect to applications covered by the CRA.

Accordingly, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board propose to amend 12 CFR by adding Parts 25, 228, 345, and 563e, to read as set forth below.

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

Sec.
25.1 Authority.
25.2 Purpose.
25.3 Delineation of entire community.
25.4 Community Reinvestment Act statement.
25.5 Assessing the record.
25.6 Effect on applications.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII, Pub. L. 95-128, 91 Stat. 1147 (12 U.S.C. 2901 et seq)); 12 U.S.C. 21, 22, 26, 27, 30, 36, 161, 215, 215a, 481, 1814, 1816, 1828(c).

§ 25.1 Authority.

The Comptroller of the Currency ("Comptroller") issues this part under the authority of the Community Reinvestment Act of 1977 (title VIII of Pub. L. 95-128), and under provisions of title 12 of the United States Code authorizing the Comptroller to charter national banks (secs. 21, 22, 26, and 27), to issue certificates to national banks to commence or resume the business of banking (secs. 1814, 1816), to consider applications from national banks to relocate a main office (sec. 30) or to establish or relocate a branch office (sec. 36), to consider applications for a merger, consolidation, acquisition of assets or assumption of liabilities where the acquiring, assuming or resulting bank is a national bank (secs. 215, 215a, 1828(c)), to require reports of condition (sec. 161), and to conduct examinations of national banks (sec. 481).

§ 25.2 Purpose.

The purposes of this regulation are to require national banks to demonstrate that their offices serve the convenience and needs of their communities; to provide guidance to national banks as to how the Comptroller will assess the records of national banks in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such banks; and to provide for taking into account those records in connecton with certain applications.

§ 25.3 Delineation of entire community.

(a) Each national bank shall prepare, and at least annually review, a delineation of the geographic area(s) comprising its entire community. The use of maps is encouraged.

(b) A national bank's entire community may consist of more than one local community. More than one office of a national bank may serve the same local community. National banks shall delineate local communities consisting of the contiguous areas surrounding each office or group of offices, without excluding low- and moderate-income neighborhoods. In preparing its delineation, a national bank shall consider the following:

(1) Existing boundaries such as those of Standard Metropolitan Statistical Areas (SMSA's) or counties may be used and, where appropriate, portions of adjacent areas may be included. National banks may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas which are extremely large or of unusual configuration. In addition, a small national bank may delineate those portions of SMSA's or counties which it reasonably may be expected to serve.

(2) A national bank may use its effective lending territory, meaning that area or areas around each of its offices where it makes a substantial portion of its loans, and all other areas equidistant from its offices as those areas, with such adjustments as may be made under paragraph (b)(1) of this section.

(3) A national bank may use any other reasonably-delineated area which meets the purposes of the Community Reinvestment Act, and does not exclude low- and moderate-income neighborhoods.

§ 25.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each national bank shall adopt a clear and concise Community Reinvestment Act (CRA) statement and shall provide, in each of its offices having interior public space, a notice that a copy of the current statement (and, if the statement is drawn separately for local communities, the portion pertaining to such office's community) is readily available on request. The notice shall also indicate that interested persons may submit to the bank or to the Regional Administrator of National Banks in the region where the bank is located, with officials' titles and addresses provided, written comments pertaining to the information contained in the statement. In addition, a CRA statement shall have

been adopted by the time any of the applications enumerated in § 25.6 is submitted.

(b) The CRA statement shall include at least the following:

(1) The delineation of the entire community and local communities, if any, as adopted by the national bank; and

(2) A list of specific types of credit within certain categories, such as residential loans for 1-to-4 dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, community development loans, commercial development loans, and consumer loans, which the bank is prepared to extend to its entire community or local communities.

(c) The statement may contain additional information the bank considers helpful in describing how its efforts, including special programs, relate to meeting types of credit needed by it community.

(d) The bank is encouraged to provide, as part of its CRA statement, a periodic public accounting of its record of meeting community credit needs.

(e) The bank's board of directors shall review each CRA statement at least annually, and shall approve any material changes whenever made. Such actions shall be noted in its minutes.

(f) The bank shall maintain a public file of all CRA comments received for, at a minimum, the two most recent calendar years, and all CRA statements in effect during those years.

§ 25.5 Assessing the record.

In connection with its examination of a national bank, the Comptroller shall assess the record of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank. The Comptroller will review the bank's CRA Statement and marketing and lending policies and practices to determine whether they are designed to help meet those needs, and assess its record of performance. The Comptroller will consider the following factors in assessing a national bank's record:

(a) Activities conducted by the bank to ascertain the credit needs of its entire community;

(b) The extent to which the bank has attempted to consult with members of local communities on the bank's plans and policies relating to credit services offered to those communities;

(c) The extent and effectiveness of the bank's marketing programs and special services to make members of the community aware of the credit services offered by the bank;

(d) Evidence of discouragement of applications for types of credit set forth in the bank's CRA statement;

(e) The extent of participation by the bank's board of directors in formulating and reviewing the bank's policies and performance with respect to the Community Reinvestment Act;

(f) The geographic distribution of the bank's loans;

(g) The bank's participation, including investments, in government-sponsored local community development projects or other local community redevelopment programs;

(h) The bank's origination of residential mortgage loans, housing rehabilitation loans; home improvement loans, commercial real estate loans, and similar loans within its entire community, or the purchase of such loans originated in its community;

(i) The bank's participation in governmentally insured, guaranteed, or subsidized housing or small business loan programs;

(j) The bank's history of prohibited discriminatory or other illegal credit practices, if any;

(k) The bank's history of opening and closing offices and providing services at offices;

(l) The bank's history of lending to both existing community members and new residents of the community;

(m) The bank's ability to meet various community credit needs based on its financial condition, size, legal impediments, and local economic and other factors; and

(n) Such other factors as may, in the Comptroller's judgment, reasonably bear upon the extent to which a national bank is helping to meet the credit needs of its entire community.

§ 25.6 Effect on applications.

(a) The assessments of the record made under section 25.5 shall be taken into account in connection with applications to the Comptroller for approval of (1) an establishment of a domestic branch or other facility with the ability to accept deposits; (2) a relocation of the main office or a branch office; and (3) a merger, consolidation, acquisition of assets, or assumption of liabilities.

(b) In considering an application where a State-chartered bank will convert into, merge or consolidate with, or have its assets acquired or liabilities assumed by a national bank, the Comptroller will take into account any views expressed by the State-chartered bank's present State and Federal supervisors.

(c) In considering an application for a national bank charter, the Comptroller will take into account the proposed bank's CRA statement

Dated: June 26, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

PART 228—COMMUNITY REINVESTMENT

Sec.
228.1 Authority.
228.2 Purposes.
228.3 Delineation of entire community.
228.4 Community Reinvestment Act statement.
228.5 Assessing the record.
228.6 Effect on applications.

AUTHORITY: Community Reinvestment Act of 1977 (Title VIII, Pub. L. 95-128, 91 Stat. 1147 (12 U.S.C. 2901 et seq.)); 12 U.S.C. 321, 325, 1814, 1816, 1828, 1842).

§ 228.1 Authority.

The Board of Governors of the Federal Reserve System issues this part to implement the Community Reinvestment Act. (Title VIII of Pub. L. 95-128; 91 Stat. 1147.) The regulations comprising this part are issued under the authority of the Community Reinvestment Act and under the provisions of the United States Code authorizing the Board to conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325), to conduct examinations of bank holding companies and subsidiaries thereof (12 U.S.C. 1844), and to consider applications for domestic branches by State member banks (12 U.S.C. 321), for Federal Deposit Insurance in connection with applications for membership in the Federal Reserve System by State banks (12 U.S.C. 321, 1814, 1816), for merger in which the resulting bank would be a State member bank (12 U.S.C. 1828) and for formation of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842).

§ 228.2 Purposes.

The purposes of this regulation are to require State member banks to demonstrate that their offices serve the convenience and needs of their communities; to provide guidance to State member banks as to how the Board will assess their records in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such banks; and to provide for taking into account those records, and those of other pertinent institutions, in connection with certain applications.

§ 228.3 Delineation of entire community.

(a) Each State member bank shall prepare, and at least annually review, a delineation of the geographic area(s) comprising its entire community. The use of maps is encouraged.

(b) A bank's entire community may consist of more than one local community. More than one office of an institution may serve the same local community. Banks shall delineate local communities consisting of the contiguous areas surrounding each office or group of offices, without excluding low- and moderate-income neighborhoods. In preparing—

(1) Exisitng boundaries such as those of Standard Metropolitan Statistical Areas (SMSA's) or counties may by used and, where appropriate, portions of adjacent areas may be included. A bank may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas which are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSA's or counties which it reasonably may be expected to serve.

(2) A bank may use its effective lending territory, meaning that area or areas around each of its offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas, with such adjustments as may be made under paragraph (b)(1) of this section.

(3) A bank may use any other reasonably delineated area which meets the purposes of the Community Reinvestment Act (CRA), and does not exclude low- and moderate-income neighborhoods.

§ 229.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each State member bank shall adopt a clear and concise Community Reinvestment Act (CRA) statement and shall provide in each of its offices having interior public space, a notice that a copy of the current statement (and, if the statement is drawn separately for local communities, the portion pertaining to such office's community) is readily available on request. The notice shall also indicate that interested persons may submit to the bank or to the Federal Reserve bank for the district where the State member bank is located, with officials' titles and addresses provided, written comments pertaining to the information contained in the statement. In addition, a CRA statement shall have been adopted by the time any of the applications enumerated in §228.6(a) is submitted.

(b) The CRA statement shall include at least the following:

(1) The delineation of the entire community and local communities, if any, as adopted by the State member bank; and

(2) A list of specific types of credit within certain categories, such as, residential loans for 1 to 4 dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, community development loans, commercial development loans, and consumer loans, which the bank is prepared to extend to its entire community or local communities.

(c) The statement may contain any additional information the bank considers helpful in describing how its efforts, including special programs, relate to meeting types of credit needed by its community.

(d) Each bank is encouraged to provide, as part of its CRA statement, a periodic public accounting of its record of meeting community credit needs.

(e) The bank's board of directors shall review each CRA statement at least annually, and shall approve any material changes whenever made. Such actions shall be noted in its minutes.

(f) The bank shall maintain a public file of all CRA comments received for, at a minimum, the two most recent calendar years, and all CRA statements in effect during those years.

§ 228.5 Assessing the record.

In connection with its examination of a State member bank, the Board shall assess the record of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank. The Board will review the bank's CRA statement and marketing and lending policies and practices to determine whether they are designed to help meet those needs, and assess its record of performance. The Board will consider the following factors in assessing a bank's record:

(a) Activities conducted by the bank to ascertain the credit needs of its entire community;

(b) The extent to which the bank has attempted to consult with members of local communities on the bank's plans and policies relating to credit services offered to those communities;

(c) The extent and effectiveness of the bank's marketing programs and special services to make members of the community aware of the credit services offered by the bank;

(d) Evidence of discouragement of applications for types of credit set forth in the bank's CRA statement;

(e) The extent of participation by the bank's board of directors in formulating and reviewing the bank's policies and performance with respect to the Community Reinvestment Act;

(f) The geographic distribution of the bank's loans;

(g) The bank's participation, including investments, in Government-sponsored local community development projects or other local community redevelopment programs;

(h) The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, commercial real estate loans, and similar loans within its entire community, or the purchase of such loans originated in its community;

(i) The bank's participation in governmentally insured, guaranteed, or subsidized housing or small business loan programs;

(j) The bank's history of prohibited discriminatory or other illegal credit practices, if any;

(k) The bank's history of opening and closing offices and providing services at offices;

(l) The bank's history of lending to both existing community members and new residents of the community;

(m) The bank's ability to meet various community credit needs based on its financial condition, size, legal impediments, and local economic and other factors; and

(n) Such other factors as may, in the Board's judgment, reasonably bear upon the extent to which the bank is helping to meet the credit needs of its entire community.

§ 228.6 Effect on applications.

(a) In considering any application: (1) For membership in the Federal Reserve System where such membership would confer Federal deposit insurance on a bank, (2) by a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (3) by a State member bank for the relocation of a domestic branch office, (4) for merger, consolidation, acquisition of assets or assumption of liabilities if the acquiring, assuming, or resulting bank is to be a State member bank, (5) to become a bank holding company, and (6) by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company, the Board will take into account, among other factors it considers, the record of the bank or, in the case of an application by a bank holding company, each of its subsidiary banks, in meeting the credit needs of its entire community including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution.

(b) In the case of each application for membership that would confer Federal deposit insurance, each application by a State member bank, and each application by a bank holding company with a State bank subsidiary, the Board will consider any views expressed by the respective State bank supervisors as to whether the State-chartered banks involved have been serving the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institutions.

(c) At the time an application for membership that would confer Federal deposit insurance is made, the applicant shall submit to the Board a proposed CRA statement conforming to the requirements of § 228.4.

(d) At the request of an applicant, the record of nonbanking subsidiaries of bank holding companies in meeting

the credit needs of communities served by their affiliated banks may be included in the Board's consideration of applications by State member banks that are subsidiaries of such bank holding companies and by such bank holding companies.

* * * * *

Board of Governors of the Federal Reserve System, June 30, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

PART 345—COMMUNITY REINVESTMENT

Sec.
345.1 Purpose.
345.2 Delineation of entire community.
345.3 Community Reinvestment Act statement.
345.4 Assessing the record.
345.5 Effect of application.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128; 91 Stat. 1147, et seq.).

§ 345.1 Purpose.

The purposes of this regulation are to require insured State nonmember banks to demonstrate that their offices serve the convenience and needs of their communities; to provide guidance to insured State nonmember banks as to how the Federal Deposit Insurance Corporation (FDIC) will assess the records of insured State nonmember banks in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such insured State nonmember banks; and to provide for taking into account those records in connection with certain application.

§ 345.2 Delineation of entire community.

(a) Each insured State nonmember bank shall prepare, and at least annually review, a delineation of the geographic area(s) comprising its entire community. The use of maps is encouraged.

(b) An insured State nonmember bank's entire community may consist of more than one local community. More than one office of an insured State nonmember bank may serve the same local community. Insured State nonmember banks shall delineate local communities consisting of the contiguous areas surrounding each office or group of offices, without excluding low- and moderate-income neighborhoods. In preparing its delineation, an insured State nonmember bank shall consider the following:

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSAs) or counties may be used and, where appropriate, portions of adjacent areas may be included. Insured State nonmember banks may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas which are extremely large or of unusual configuration. In addition, a small insured State nonmember bank may delineate those portions of SMSAs or counties which it reasonably may be expected to serve.

(2) An insured State nonmember bank may use its effective lending territory, meaning that area or areas around each of its offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas, with such adjustments as may be made under paragraph (b)(1) of this section.

(3) An insured State nonmember bank may use any other reasonably delineated area which meets the purposes of the Community Reinvestment Act (CRA), and does not exclude low- and moderate-income neighborhoods.

§ 345.3 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each insured State nonmember bank shall adopt a clear and concise Community Reinvestment Act (CRA) statement and shall provide, in each of its offices having interior public space, a notice that a copy of the current statement (and, if the statement is drawn separately for local communities, the portion pertaining to such office's community) is readily available on request. The notice shall also indicate that interested persons may submit to the insured State nonmember bank or to the FDIC regional office in the region where the insured State nonmember bank is located, with officials' titles and addresses provided, written comments pertaining to the information contained in the statement. In addition, a CRA statement shall have been adopted by the time any of the applications enumerated in § 345.5 is submitted.

(b) The CRA statement shall include at least the following:

(1) The delineation of the entire community and local communities, if any, as adopted by the insured State nonmember bank; and

(2) A list of specific types of credit within certain categories, such as residential loans for 1-to-4 dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, community development loans, commercial development loans, and consumer loans, which the insured State nonmember bank is prepared to exend to its entire community or local communities.

(c) The statement may contain additional information the insured State nonmember bank considers helpful in describing how its efforts, including special programs, relate to meeting types of credit needed by its community.

(d) The insured State nonmember bank is encouraged to provide, as part of its CRA statement, a periodic public accounting of its record of meeting community credit needs.

(e) The insured State nonmember bank's board of directors shall review each CRA statement at least annually, and shall approve and material changes whenever made. Such actions shall be noted in its minutes.

(f) The insured State nonmember bank shall maintain a public file of all CRA comments received for, at a minimum, the two most recent calendar years, and all CRA statements in effect during those years.

§ 345.4 Assessing the record.

In connection with its examination of an insured State nonmember bank, the FDIC shall assess the record of the insured State nonmember bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the insured State nonmember bank. The FDIC will review the insured State nonmember bank's CRA statement and marketing and lending policies and practices to determine whether they are designed to help meet those needs, and assess its record of performance. The FDIC will consider the following factors in assessing an insured State nonmember bank's record:

(a) Activities conducted by the insured State nonmember bank to ascertain the credit needs of its entire community;

(b) The extent to which the insured State nonmember bank has attempted to consult with members of local communities on the insured State nonmember bank's plans and policies relating to credit services offered to those communities;

(c) The extent and effectiveness of the insured State nonmember bank's marketing programs and special services to make members of the community aware of the credit services offered by the insured State nonmember bank;

(d) Evidence of discouragement of applications for types of credit set forth in the insured State nonmember bank's CRA statement;

(e) The extent of participation by the insured State nonmember bank's board of directors in formulating and reviewing the insured State nonmember bank's policies and performance with respect to the Community Reinvestment Act;

(f) The geographic distribution of the insured State nonmember bank's loans;

(g) The insured State nonmember bank's participation, including investments, in government-sponsored local community development projects or other local community redevelopment programs;

(h) The insured State nonmember bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, commercial real estate loans, and similar loans within its entire community, or the purchase of such loans originated in its community;

(i) The insured State nonmember bank's participation in governmentally insured, guaranteed, or subsidized housing or small business loan programs;

(j) The insured State nonmember bank's history of prohibited discriminatory or other illegal credit practices, if any;

(k) The insured State nonmember bank's history of opening and closing offices and providing services at offices;

(l) The insured State nonmember bank's history of lending to both existing community members and new residents of the community;

(m) The insured State nonmember bank's ability to meet various community credit needs based on its financial condition, size, legal impediments, and local economic and other factors; and

(n) Such other factors as may, in the FDIC's judgment, reasonably bear upon the extent to which an insured State nonmember bank is helping to meet the credit needs of its entire community.

§ 345.5 Effect on applications.

(a) The assessment of the record under § 345.4 shall be taken into account in connection with applications to the FDIC for: (1) Deposit insurance; (2) approval of an establishment of a domestic branch or other facility with the ability to accept deposits; (3) approval of a relocation of the main office or a branch office; and (4) approval of a merger, consolidation, acquisition of assets, or assumption of liabilities.

(b) In considering an application where a State member or national bank will convert into, merge or consolidate with, or have its assets acquired or liabilities assumed by a State nonmember bank, the FDIC will take into account any views expressed by the State member or national bank's present State and Federal supervisors.

(c) In considering an application for deposit insurance, the FDIC will take into account the bank's CRA statement.

Dated: June 26, 1978.

ALAN R. MILLER,
Executive Secretary.

PART 563e—COMMUNITY INVESTMENT

Sec.
563e.1 Authority.
563e.2 Purpose.
563e.3 Delineation of entire community.
563e.4 Community Reinvestment Act statement.
563e.5 Assessing the record.
563e.6 Effect on applications.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128; 91 Stat. 1147, et seq. 12 U.S.C. 2901 et seq.); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, and 408, 48 Stat. 1256, 1257, 1260, and 1260a as amended (12 U.S.C. 1725, 1726, 1730, 1730a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 (Comp. 1071).

§ 563e.1 Authority.

The provisions of this part 563e are issued under the Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128; 91 Stat. 1147, et seq.); and under section 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, and 408, 48 Stat. 1256, 1257, 1260, and 1260a as amended (12 U.S.C. 1725, 1726, 1730, 1730a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 (Comp. 1071).

§ 563e.2 Purpose.

The purposes of this regulation are to require insured institutions (hereafter "institutions") to demonstrate that their offices serve the convenience and needs of their communities; to provide guidance to institutions as to how the agencies will assess the records of institutions in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institutions; and to provide for taking into account those records in connection with certain applications.

§ 563e.3 Delineation of entire community.

(a) Each institution shall prepare, and at least annually review, a delineation of the geographic area(s) comprising its entire community. The use of maps is encouraged.

(b) An institution's entire community may consist of more than one local community. More than one office of an institution may serve the same local community. Institutions shall delineate local communities consisting of the contiguous areas surrounding each office or group of offices, without excluding low- and moderate-income neighborhoods. In preparing its delineation, an institution shall consider the following:

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSA's) or counties may be used and, where appropriate, portions of adjacent areas may be included. Institutions may make adjustments in the case of areas divided by state borders or significant geographic barriers, or areas which are extremely large or of unusual configuration. In addition, a small institution may delineate those portions of SMSA's or counties which it reasonably may be expected to serve.

(2) An institution may use its effective lending territory, meaning that area or areas around each of its offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas, with such adjustments as may be made under paragraph (b)(1) of this section.

(3) An institution may use any other reasonably delineated area which meets the purposes of the Community Reinvestment Act (CRA), and does not exclude low- and moderate-income neighborhoods.

§ 563e.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each institution shall adopt a clear and concise Community Reinvestment Act (CRA) statement and shall provide, in each of its offices having interior public space, a notice that a copy of the current statement (and, if the statement is drawn separately for local communities, the portion pertaining to such office's community) is readily available on request. The notice shall also indicate that interested persons may submit to the institution or to the supervisory agent in the district where the institution is located, with officials' titles and addresses provided, written comments pertaining to the information contained in the statement. In addition, a CRA statement shall have been adopted by the time any of the applications enumerated in § 563e.6(a) is submitted.

(b) The CRA statement shall include at least the following:

(1) The delineation of the entire community and local communities, if any, as adopted by the institution; and

(2) A list of specific types of credit within certain categories, such as residential loans for 1-to-4 dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, community development loans, commercial development loans, and consumer loans, which the institution is prepared to extend to its entire community or local communities.

(c) The statement may contain additional information the institution considers helpful in describing how its efforts, including special programs, relate to meeting types of credit needed by its community.

(d) The institution is encouraged to provide, as part of its CRA statement, a periodic public accounting of its record of meeting community credit needs.

(e) The institution's board of directors shall review each CRA statement at least annually, and shall approve any material changes whenever made. Such actions shall be noted in its minutes.

(f) The institution shall maintain a public file of all CRA comments received for, at a minimum, the two most recent calendar years, and all CRA statements in effect during those years.

§ 563e.5 Assessing the record.

In connection with its examination of an institution, the Board shall assess the record of the institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. The Board will review the institution's CRA Statement and marketing and lending policies and practices to determine whether they are designed to help meet those needs, and assess its record of performance. The Board will consider the following factors in assessing an institution's record:

(a) Activities conducted by the institution to ascertain the credit needs of its entire community;

(b) The extent to which the institution has attempted to consult with members of local communities on the institution's plans and policies relating to credit services offered to those communities;

(c) The extent and effectiveness of the institution's marketing programs and special services to make members of the community aware of the credit services offered by the institution;

(d) Evidence of discouragement of applications for types of credit set forth in the institution's CRA statement;

(e) The extent of participation by the institution's board of directors i formulating and reviewing the institution's policies and performance with respect to the Community Reinvestment Act;

(f) The geographic distribution of the institution's loans;

(g) The institution's participation, including investments, in government-sponsored local community development projects or other local community redevelopment programs;

(h) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, commercial real estate loans, and similar loans within its entire community, or the purchase of such loans originated in its community;

(i) The institution's participation in governmentally insured, guaranteed, or subsidized housing or small business loan programs;

(j) The institution's history of prohibited discriminatory or other illegal credit practices, if any;

(k) The institution's history of opening and closing offices and providing services at offices;

(l) The institution's history of lending to both existing community members and new residents of the community;

(m) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, and local economic and other factors; and

(n) Such other factors as may, in the Board's judgment, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

§ 563e.6 Effect on applications.

(a) Assessments under this part shall be taken into account in determining whether to grant charters, deposit insurance, branches and other deposit facilities, relocations, mergers, consolidations, acquisitions of asset or assumptions of liabilities, and savings and loan holding company applications.

(b) In considering an application for a charter or deposit insurance, the Board will take into account the applicant's proposed CRA statement.

(c) The Board will take into account any views expressed by State-chartered applicants' state supervisory authorities with regard to whether applicants are helping to meet the credit needs of their communities.

(d) The Board may consider the credit-granting record of any financial subsidiaries of savings and loan holding companies when such holding companies submit to the Board applications listed under paragraph (a) of this section.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

JUNE 28, 1978.

[FR Doc. 78-19045 Filed 7-10-78; 8:45 am]

Federal Register

TUESDAY, JULY 11, 1978
PART VI

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

■

INDUSTRIAL HYDROCARBONS AND ALCOHOLS PILOT PROJECTS

Policies and Procedures

[3410-05]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

PART 1480—INDUSTRIAL HYDROCARBONS AND ALCOHOLS PILOT PROJECTS

Policies and Procedures

AGENCY: Commodity Credit Corporation.

ACTION: Final regulations.

SUMMARY: These regulations provide policies and procedures for submission and evaluation of definitive proposals for pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products for which projects loan guarantees would be made pursuant to section 1420 of the Food and Agriculture Act of 1977 (Pub. L. 95-113).

DATES: Effective July 11, 1978. Pilot Project Proposals to be received not later than October 16, 1978.

ADDRESSES: Pilot Project Proposals should be delivered to Mr. Harry Brown, Office of Energy, Room 3812, South Building, U.S. Department of Agriculture, 12th and Independence Avenues SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Brown, Office of Energy, Room 3812, South Building, U.S. Department of Agriculture, 12th and Independence Avenues SW., Washington, D.C. 20250, telephone 202-447-4515.

SUPPLEMENTARY INFORMATION: Many written comments were received following publication on May 12, 1978, of the proposed regulations (43 FR 20774), and written and oral comments were received at public hearings held May 26, 1978, in Washington, D.C.; June 1, 1978, in St. Louis, Mo.; and June 3, 1978, in Spokane, Wash. These comments have been carefully considered and action taken on them as follows in issuing these final regulations:

1. The largest group of comments related to the methods, boundaries and other factors regarding energy aspects of the project.

The requirements of the enabling legislation have been adequately presented in the proposed rules, and additions have been made to define the proposed qualifications. Energy consumption and availability in the end product(s) are of great importance and need to be thoroughly addressed and documented by proposers. In determining the energy balance—whether more energy is produced than the fossil fuel energy used—each proposed project will be carefully appraised on the basis of the proposal submissions and related documentation.

2. A substantial number of commentors noted that establishing marketing arrangements would be extremely difficult prior to submission because of competitive economics with regard to gasoline and the lack of an established market for some potential applications and softness with others.

The market for the products is a key part of any resulting business, and it is important that the market potential, viability and/or commitments be included in the proposal. It is also important for a proposal to document the economic feasibility of the project as a whole, as required by these regulations, in such a way as to overcome the testimony of a number of expert witnesses at the hearings which seriously questioned the economic feasibility of operations of this general type. There are no provisions in this enabling legislation for Government market incentives.

3. Commentors suggested that the definition of industrial hydrocarbon is potentially restrictive.

Certain modifications, in concert with these suggestions, were carried out by minor changes in § 1480.3, paragraphs (c), (e), and (f).

4. Several commentors suggested that proposals be allowed without the necessity of a loan commitment and/or a written affirmation supporting the necessity for a loan guarantee.

Changes consistent with such comments are made in § 1480.10 by postponing the need for this information until after a tentative loan guarantee has been established.

5. Several commentors suggested specific criteria (including requirements for new technology), preferences and/or requirements related to evaluation of proposals.

These and other factors are considered to be within the context of § 1480.6.

6. Several commentors suggested that evaluation credits be given for environmental benefits or that such be required.

These comments are considered to be adequately covered in §§ 1480.4 and 1480.6 with minor modification.

7. Several commentors suggested changes in the definition of the feedstock resources to emphasize or delete specific feedstocks and to use other terminology, including deletion of the term "biomass."

With necessary modification, peat was eliminated on the basis that it is not a renewable resource. Biomass is a recognized broad definition of renewable agricultural and forestry growth, and it is desirable to use all portions that can be economically used; thus this wording was not changed.

8. The following comments were considered, but not adopted: a. Provision for 100 percent loan; b. Extension of proposal response time.

These were deemed contrary to the spirit or intent of the enabling legislation or would unnecessarily delay or negatively impact on the results.

9. Other comments which were not adopted related to a broad range of concerns regarding elements of potential proposals.

These were either beyond the scope of the program contemplated, discretionary on the part of the proposer, not pertinent to the scope of the requirements, already adequately covered in the requirements, or contrary to the statutory or other legal requirements.

10. Numerous minor suggestions for editorial and clarifying changes have been adopted.

The final regulations include an invitation for proposals for pilot projects to be submitted and received on or before October 16, 1978, except that lender and loan information may be submitted thereafter when requested by the Secretary.

The regulations set forth below will be included in subchapter B of Chapter XIV, Title 7 of the Code of Federal Regulations, as Part 1480.

Sec.

AUTHORITY: Sec. 1420, Pub. L. 95-113, 91 Stat. 998 (7 U.S.C. 2669).

§ 1480.1 General.

Section 1420 of the Food and Agricultural Act of 1977, Pub. L. 95-113, (the Act) authorizes the Secretary of Agriculture (the Secretary) to initiate a pilot program for the production and marketing of industrial hydrocarbons from agricultural commodities and forest products. In the Act, "the Secretary is authorized and directed to formulate and carry out a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest

products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons." The Act also states that "the Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans not to exceed $15,000,000 per each such project, to public, private or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender." This section and the following sections of Part 1480 of this subchapter constitute regulations for submitting, evaluating, selecting, and approving applications for guaranteed loans under the Act. Project proposals conforming to the Act and these regulations will be considered by a panel of experts which will advise the Secretary concerning selection of pilot projects for loan guaranty under the Act.

§ 1480.2 Project description format.

Applications shall use the following project description format:

(a) Project title: Title should be descriptive and brief.

(b) Date of submission.

(c) Organization: The official name and address of the proposing organization.

(d) Responsible officer: The name and address of the official of the organization responsible for the project.

(e) Designated contact official: The name, address, and telephone number of the official working contact for the proposing organization.

(f) Lender: Name and address of potential lending agency, if known.

(g) Qualifications of proposer: Personal qualifications data of key personnel of proposer pertinent to project.

(h) Objectives of project: The objectives should establish specific pilot project goals of production, timing, information development, and followup.

(i) Justification (in terms of Act): Statement showing how the project would address purposes of section 1420 of the Food and Agriculture Act of 1977 and serve the national interest.

(j) Raw materials and source area: Statement should describe the raw materials availability, sources and alternatives, and describe the assembly process.

(k) Process and flow diagrams: Statement should contain a stepwise description of production, collection, processing, storage, transport and marketing.

(l) Energy balance: Statement should include a detailed analysis demonstrating how the project would meet the energy balance requirements of Pub. L. 95-113 and these regulations.

(m) Products and byproducts, uses and markets: Statement should list products, yields and their alternative uses and markets.

(n) Flexibility of raw material and products: Statement showing opportunities for using alternative raw materials and products in order to enhance economic return and energy output.

(o) Plant location, sites: Describe anticipated plant location and auxiliary sites and the respective advantages of these locations.

(p) Facilities and equipment: Describe proposed plant, facilities, equipment, and marketing arrangements.

(q) Employment: List numbers and categories of employees and expected payroll.

(r) Construction and onstream timetable: Tabulation or chart showing timetables for project construction, production start up and sales progress.

(s) Amount of loan guarantee requested: Loans requested and percentage of total cost of project.

(t) Economic feasibility study:

(1) Capital costs: Tabulation and description of investments, loans and repayment of capital.

(2) Operating costs: Tabulation and descriptions of operating expenses related to output.

(3) Markets: Description and demonstration of market potential, viability, and commitments.

(4) Product output and value: Tabulation of production, sales and returns.

(5) Cost evaluation, economic information: Cost summary to provide evidence of the payment time and economic viability.

(u) External cooperators: Identification of assistance groups (i.e., Federal, State, local, etc.).

§ 1480.3 Definitions and other requirements.

(a) "Project" means an undertaking by the borrower which when completed will result in the production of industrial hydrocarbons and/or alcohols from biomass and otherwise conform to the requirements of these regulations, and Pub. L. 95-113, section 1420.

(b) The industrial hydrocarbons and alcohols must be produced from "agricultural commodities and forest products." For the most effective implementation of the statute, the phrase "agricultural commodities and forest products" has been construed in the broadest sense as all forms of farm crops, vegetation, and residues. For that reason, as well as brevity of reference, the regulations equate the phrase with the term "biomass." "Biomass" includes, for example, such diverse materials as the grain and stalks of corn, wheat, and rice; cottonseed hulls; fruits and vegetables and their processing byproducts and residues; poultry and livestock manures and residues; wood products including bark, pulp, chips, and residues from logging and paper manufacturing; aquatic plants; and specific energy-farm crops.

(c) An industrial hydrocarbon must chemically consist of carbon plus hydrogen as the major constituent.

(d) Alcohols are a class of compounds which are hydroxyl derivations of hydrocarbons. "Alcohols" in these regulations may contain no more than 5 percent other constituents chemically bound to the alcohol molecule.

(e) Industrial hydrocarbons and alcohols in these regulations are primarily intended for nonfood and nonfeed uses, such as direct fuels or industrial energy-type raw materials.

(f) Alcohols and/or industrial hydrocarbons must be major products in a project.

(g) Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts. For projects which propose to operate using raw materials or feedstocks which are residues of crop, forestry, or animal production or which constitute agricultural commodities of below market grade, only the energy used for the collection and for the process of conversion to hydrocarbons or alcohols will be counted in determining the energy balance. For projects which propose to use as feedstocks commercially marketable agricultural commodities, the fossil fuel used for the growing of the crop through final processing is part of the energy producing system and will be counted in determining the energy balance. The estimation of fossil fuel inputs used in production of different crops will be based upon the publication: Energy and U.S. Agriculture, 1974 Data Base Vol. 1 FEA, USDA September 1976 (FEA/D-76/459).

§ 1480.4 Environmental considerations.

(a) Applicant must present adequate environmental impact information. For a proposed project being actively considered for a loan guaranty, an environmental assessment will be prepared by the responsible Federal official and utilized to determine the environmental consequences of the proposed project.

(1) If, as a result of the above assessment, the Secretary determines that undertaking the proposed project will have a significant effect on the quality of the human environment, an environmental statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 will be prepared and issued by the responsible Federal official.

(b) If the Secretary determines that undertaking the proposed project will

not have a significant effect on the quality of the human environment, a negative determination will be prepared prior to final action on the guaranty application.

(c) Nothing in this regulation shall be construed to modify requirements imposed on the borrower or lender by Federal, State and local government agencies in connection with permits, licenses, or other authorization to conduct or finance these activities.

§ 1480.5 Trade secrets.

Subject to requirements of the Freedom of Information Act, other laws and these regulations, trade secrets, commercial and financial information and data (including maps) which the borrower makes available to the Secretary during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will be so treated and will not be publicly disclosed without the prior written approval of the borrower. In order to assist in carrying out this provision, information deemed by the borrower or lender to fall within one of the foregoing categories shall be identified and appropriately marked by the borrower or the lender.

§ 1480.6 Evaluation criteria.

(a) Proposed projects must meet the criteria of Pub. L. 95-113 and of these regulations. Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts. The operation as a whole is designed to demonstrate economic feasibility. The technology used in the operation is potentially applicable at other locations on a regional or national scale.

(b) Additional criteria for evaluation of projects will also be considered, which further the purposes of the Act and provide for stabilization and expansion of the market for agricultural commodities and forest products, expansion of the Nation's supply of industrial hydrocarbons and alcohols, reduction of requirements for fossil fuels in production, conversion, marketing and utilization of biomass for alcohols and hydrocarbons, demonstration and utilization of new technological advances, diversity of feedstocks, conversion processes, products and by-products, and most favorable environmental impact.

§ 1480.7 Project monitoring and reports.

(a) The guaranty agreement shall provide that employees and representatives of USDA shall have access to the project site. To the extent lawful and within their control, the lender and borrower will assure availability of such information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guaranty.

(b) An annual progress report on each pilot project, not to exceed 12 pages, will be required from the borrower. The annual reports will be organized around the objectives, the installations, the processes, the production goals, and timetables. The annual reports will be due on September 30 of each fiscal year of the project.

(c) A comprehensive report covering all findings, accomplishments, and cost evaluations will be prepared at the end of the first 5 years. The purpose of this report will be to obtain fullest definitive information on the economic and technical feasibility of larger-scale application of the processes tested in the pilot project. The comprehensive report will use the following format:

Title page.
Foreword.
Abstract.
Tables and figures.
Definitions, abbreviations, symbols.
Acknowledgements.
Chapters:
1. Introduction.
2. Findings and conclusions.
3. Recommendations.
4. Raw materials, process and products.
5. Marketing and utilization.
6. Financing and cost analysis.
7. Economic analysis and feasibility of scale-up.

§ 1480.8 Patent and proprietary rights.

(a) Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except that such rights shall be, in the case of default, treated as project assets in accordance with terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest.

§ 1480.9 Loan guaranty criteria.

(a) The Secretary may enter into agreements to guarantee lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers. Such agreements can be entered into only for the purposes of design, construction, and operation of equipment or facilities for the production of industrial hydrocarbons and alcohols from biomass.

(b) A loan application which meets a lender's standard without a Federal guaranty will be regarded by the Secretary as not eligible for a loan guaranty under this regulation. No loan shall be guaranteed if the income from such loan or the income from obligations issued by the holder of such loan is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

(c) A guaranty may be made only if the following conditions are met as determined by the Secretary:

(1) The amount of a guaranty for any loan for a project does not exceed $15,000,000.

(2) The guaranty as to principal shall apply only to so much of the principal amount of the loan as does not exceed 90 percent of the estimated aggregate cost of the project with respect to which the loan is made. However, there is no prohibition against the guaranty being equal to 100 percent of the loan to be made by the lender.

(3) The lender has set forth reasons why the loan would not be made to the borrower without a Federal loan guaranty.

(4) The terms of the loan require full repayment over a period of no more than 20 years.

(5) The loan bears interest at a rate agreed upon by the borrower and lender and approved by the Secretary.

(6) The project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States outside the United States, its territories or possession.

(7) The terms and conditions set forth in the loan agreement are acceptable to the Secretary.

(8) The borrower and any nonguaranteed lender agree in writing that (i) the terms and conditions set forth in a nonguaranteed loan agreement relating to the project shall be acceptable to the Secretary and (ii) the nonguaranteed loan shall be subordinate to the guaranteed loan.

§ 1480.10 Supporting loan guaranty information.

(a) The lender and borrower shall provide information in support of the application such as described by the following items:

(1) Full description of the scope, nature, extent, and location of the proposed project.

(2) A written affirmation by the lender supporting the necessity for a Federal loan guaranty.

(3) Evidence supporting the borrower's ability to complete the project in a timely and efficient manner.

(4) Agreed upon interest rate to be charged by the lender.

(5) Period of repayment not to exceed 20 years and amount of the

loan and the percent of the project cost to be guaranteed.

(6) A detailed budget-type breakdown of both the estimated aggregate cost of the project and the amount to be borrowed.

(7) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to carry out the project.

(8) The borrower's plan to pay interest charges and repay the loan, including assumptions regarding marketability of the project's results or product.

(9) The aggregate amount of guaranty commitments and/or guaranteed loans outstanding made to the borrower under the provisions of this regulation.

(10) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property, supported by title opinion or other locally acceptable evidence of the borrower's interest, on which the project is to be carried out.

(11) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project.

(12) A description of the borrower's management concept and business plan or plan of operations to be employed in carrying out the project.

(13) A description of the project's technical and economic feasibility.

(14) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of a commitment from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment.

(15) A copy of the loan agreement to be executed by the lender and borrower.

(16) A listing of assets associated or to be associated with the project, including appropriate data as to the useful life of any physical asset, and any other security for the loan and guaranty agreement.

(17) A description of other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) available to the borrower in connection with the project.

(18) A description of the processes and methods the borrower plans to utilize.

(19) Copies of all applications when filed, and approvals when issued by Federal, State, and local government agencies, for permits and authorizations to conduct operations associated with project.

(20) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, bylaws and appropriate authorizing resolutions.

(21) The lender's written assessment of all aspects of the borrower's loan application in sufficient detail as would be completed by any prudent lender considering a loan without a guaranty together with copies of investigations from credit bureaus, references, bank inquiries, and professional organizations.

(22) Written assurance from guaranteed and, when appropriate to the project, nonguaranteed lenders that the loan amounts as well as terms and conditions imposed by such lenders will not be altered in any significant respect without approval of the Secretary.

(23) A description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are, or will be, directly associated with the project.

(24) Evidence of consultation conducted by the borrower with appropriate agencies of any affected State regarding the proposed project.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Secretary may independently obtain or may require the lender to include with the guaranty application the filing of information regarding the lender as deemed necessary by the Secretary including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions demonstrating the lender's competence to administer loan terms and conditions.

(2) Copies of investigations obtained from credit bureaus, reference and bank inquiries, and professional associations.

(3) Descriptions covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan.

(4) A description of the management concept to be employed by the lender in surveillance of the loan.

(5) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of complex technological projects.

(c) The Secretary shall consider the application and other relevant information and shall be responsible for (1) determining whether the application is in compliance with this regulation; (2) assessing and evaluating the financial, technical, environmental, management, and marketing aspects of the project.

(d) Information required by this section on the lender and loan details need not accompany the proposal and may be supplied when requested by the Secretary.

§ 1480.11 Closing.

The major activities leading to the closing of the guaranty agreement include the following:

(a) When an application for a loan guaranty has been approved by the Secretary, the Secretary will so notify the lender and the borrower and provide them with a copy of the proposed guaranty agreement.

(b) The Secretary shall arrange with the lender and the borrower for the preparation and review of necessary documents and agree upon a date for execution of a guaranty agreement.

§ 1480.12 Loan disbursements by lender.

Unless otherwise provided in the guaranty agreement, the lender shall not make any disbursement on the loan until it has followed notification requirements as set forth in appendix A, section (c)(1), and has received written notice from the Secretary that disbursement is approved.

§ 1480.13 Preservation of collateral.

Unless otherwise provided in the loan guaranty documents, upon default by the borrower, the holder of collateral associated with project shall take actions such as the Secretary may reasonably require to provide for the care, preservation, and maintenance of such collateral so as to achieve maximum recovery upon liquidation of collateral, security and guarantees for the loan. The lender shall not waive or relinquish, without the consent of the Secretary any collateral or guaranty for the loan to which the Government would be subrogated upon payment under the guaranty agreement to the lender.

§ 1480.14 Security with respect to borrower's assets.

Each loan guaranteed under this regulation will be secured by liens or assignments of rights in assets associated with the project, or such other security specified in the guaranty agreement as the Secretary may determine to be reasonably required to protect the interests of the United States.

§ 1480.15 Treatment of payments.

When the lender holds a guaranteed and nonguaranteed portion of a loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guaranteed and nonguaranteed portion of the loan on a proportionate basis.

§ 1480.16 Assignment and incontestability.

(a) Except as may be required by law, the lender may assign to another lender rights and obligations under the loan or guaranty agreement only with the prior written consent of the Secretary.

(b) The lender may provide other lenders with participating shares in the loan without the prior consent of the Secretary. Written notice shall be given by the lender to the Secretary and the borrower when participating shares are so provided. However, the original lender shall continue to be responsible for and perform the provisions of the guaranty agreement pertaining to the lender, unless the Secretary approves a substitute lender.

(c) The guaranty agreement shall be conclusive evidence that the guaranty and the underlying loan are in compliance with the provisions of Pub. L. 95-113, section 1420, and this regulation and that such loan has been approved and is legal as to principal and interest and other terms. Such a guaranty shall be valid and incontestable by the Government except for fraud or misrepresentation by the holder of the obligation.

§ 1480.17 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisition or construction purposes in an identified flood plain area having special flood hazards.

§ 1480.18 Effective date and proposal receipt date.

This Part 1480 shall become effective July 11, 1978. Pilot Project Loan Guaranty proposals to be considered under these regulations must be received on or before October 16, 1978, by Mr. Harry Brown, Office of Energy, Room 3812 South Building, U.S. Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C. 20250.

APPENDIX A—LOAN SERVICING BY LENDER

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without guaranty.

(b) The loan agreement shall provide the customary period of grace for the making of any payment of principal or interest. However, the lender shall not grant to the borrower any further extension of time over and above any period of grace for the making of any payment in whole or in part under the loan agreement without the prior written consent of the Secretary.

(c) The lender shall notify the Secretary in writing without delay:

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the Project has commenced or is about to commence.

(2) At monthly, or at other agreed upon intervals, of the date and amount of each subsequent disbursement under the loan.

(3) Of any nonpayment by the borrower of principal or interest as required by the loan agreement, if such nonpayment is not cured within the grace period, together with evidence of appropriate notifications made by the lender to the borrower.

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment.

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement or guaranty agreement.

(6) When the lender believes that the borrower may not be able to meet any future scheduled payment of principal or interest.

(d) In the event the lender retains the option to accelerate payment of the borrower's indebtedness, the lender shall not do so without the prior written consent of the Secretary.

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended and OMB Circular A-107.

Dated: July 6, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-19096 Filed 7-10-78; 8:45 am]